

HOUSE No. 4619

The Commonwealth of Massachusetts

House Bill No. 4591, as amended and passed to be engrossed by the House. April 14,
2010.

The Commonwealth of Massachusetts

In the Year Two Thousand and Ten

An Act establishing expanded gaming in the commonwealth.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 7 of chapter 4 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out clause Tenth and inserting in place thereof the following clause:-

Tenth, "Illegal gaming," any banking or percentage game played with cards, dice, tiles, dominoes, or any electronic, electrical or mechanical device or machine for money, property, checks, credit or any representative of value, but excluding: (i) any lottery game conducted by the state lottery commission, pursuant to sections 24, 24A and 27 of chapter 10; (ii) any game conducted pursuant to chapter 23K; (iii) pari-mutuel wagering on horse races, whether live or simulcast, pursuant to chapter 128A and chapter 128C; (iv) the game of bingo conducted pursuant to chapter 271; and (v) any charitable gaming, so called, conducted pursuant to chapter 271.

16 **SECTION 3.** Section 48 of said chapter 6 is hereby repealed.

17 **SECTION 4.** Sections 64 and 65 of chapter 10 of the General Laws
18 are hereby repealed.

19 **SECTION 5.** Chapter 12 of the General Laws is hereby amended by
20 inserting after section 11L the following section:-

21 Section 11M. (a) As used in this section the following words
22 shall, unless the context clearly requires otherwise, have the
23 following meanings:-

24 "Commission", the Massachusetts gaming commission established
25 pursuant to chapter 23K.

26 "Division", the division of gaming enforcement established
27 pursuant to subsection (b).

28 "Gaming establishment", as defined in section 1 of chapter 23K.

29 (b) There shall be in the department of the attorney general a
30 division of gaming enforcement. The attorney general shall
31 designate an assistant attorney general as director of the
32 division. The director may appoint and remove, subject to the
33 approval of the attorney general, such expert, clerical or other
34 assistants as the work of the division may require.

35 (c) The division shall have jurisdiction to enforce criminal
36 violations of chapter 23K including, but not limited to, the

power to: (1) investigate allegations of criminal activity related to or impacting the operation of gaming establishments or games; (2) receive and take appropriate action on referrals for criminal prosecution from the commission; (3) provide assistance, upon request, to the commission in the consideration and promulgation of rules and regulations; (4) ensure that there is no duplication of duties and responsibilities between it and the commission; and (5) recommend persons to be placed on the list of excluded persons maintained by the commission.

No employee of the division, or any person engaged by the division in the course of an investigation, other than those in the performance of their official duties, shall place a wager in any gaming establishment licensed pursuant to chapter 23K during the period of their employment or assignment with the division. The attorney general shall establish a code of ethics for all division employees that is more restrictive than the provisions of chapters 268A and 268B; a copy of which shall be filed with the state ethics commission. The code shall include provisions reasonably necessary to carry out the purposes of section 11M including, but not limited to: (i) prohibiting the receipt of gifts by a division employee from any gaming licensee, applicant, close associate, affiliate or other person or entity subject to the jurisdiction of the commission established by

chapter 23K; and (ii) prohibiting the participation by a division employee in any particular matter as defined by section 1 of chapter 268A that affects the financial interest of any relative within the third degree of consanguinity or person with whom such employee has a significant relationship as defined by such code.

SECTION 6. Chapter 12B of the General Laws is hereby repealed.

SECTION 7. Subsection (b) of section 9 of chapter 13 of the General Laws, is hereby amended by striking out the words “, as well as the state racing commission established by section 48 of chapter 6,” inserted by section 29 of chapter 4 of the acts of 2009.

SECTION 8. Subsection (e) of section 9B of said chapter 13 is hereby amended by striking out the words “, as well as the state racing commission established by section 48 of chapter 6” , inserted by section 30 of said chapter 4.

SECTION 9. Said subsection (e) of said section 9B of said chapter 13, inserted by section 31 of said chapter is hereby amended by striking out the words “or regulated by the state racing commission, as established by section 48 of chapter 6” , inserted by section 30 of said chapter 4,

SECTION 10. Section 38 of chapter 22C of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after the word "involving", in lines 36 and 37, the following word:- illegal.

SECTION 11. Said chapter 22C is hereby amended by adding the following section:-

Section 70. The colonel of state police shall establish a gaming enforcement unit whose responsibilities shall include, but not be limited to, the investigation of criminal violations of chapter 23K or any other general or special law that pertains to gaming.

The gaming enforcement unit shall work in conjunction and cooperation with the bureau of investigations and enforcement under the Massachusetts gaming commission established pursuant to chapter 23K on the enforcement of chapter 23K as well as the division of gaming enforcement in the office of the attorney general established pursuant to section 11M of chapter 12 to investigate any criminal activity related to gaming in the commonwealth. Officers and employees from the unit shall be assigned to the bureau of investigations and enforcement and shall report to the deputy director of said bureau as well as the colonel of the department of state police pursuant to section 34 of chapter 23K. No officer of the unit, other than

104 in the performance of official duties, shall place a wager in
105 any gaming establishment licensed under chapter 23K.

106 **SECTION 12.** The General Laws are hereby amended by inserting
107 after chapter 23J the following chapter:-

108 **CHAPTER 23K.**

109 **THE MASSACHUSETTS GAMING COMMISSION**

110 **Section 1.** The General Court finds and declares that:

111 (1) ensuring public confidence in the integrity of the gaming
112 licensing process and in the strict oversight of all gaming
113 establishments through a rigorous regulatory scheme is the
114 paramount policy objective of this chapter;

115 (2) establishing the financial stability and integrity of
116 gaming licensees, as well as the integrity of their sources of
117 financing, is an integral and essential element of the
118 regulation and control of gaming under this chapter;

119 (3) gaming licensees shall be held to the highest standards of
120 licensing and shall have a continuing duty to maintain their
121 integrity and financial stability;

122 (4) enhancing and supporting the performance of the state
123 lottery and continuing the commonwealth's dedication to local
124 aid is imperative to the policy objectives of this chapter;.

125 (5) the commonwealth must provide for new employment
126 opportunities in all sectors of the economy, particularly
127 opportunities for the unemployed; this chapter sets forth a
128 robust licensing process where applicants for a gaming license
129 shall submit a comprehensive plan for operating a gaming
130 establishment which includes how they will foster and encourage
131 new construction through capital investment and provide
132 permanent employment opportunities to residents of the
133 commonwealth;

134 (6) promoting local small businesses and the tourism industry,
135 including the development of new and existing small business and
136 tourism amenities such as lodging, dining, retail and cultural
137 and social facilities, is fundamental to the policy objectives
138 of this chapter;

139 (7) recognizing the importance of the commonwealth's unique
140 cultural and social resources and integrating them into new
141 development opportunities shall be a key component of a decision
142 to the award of any gaming license under this chapter;

143 (8) applicants for gaming licenses and gaming licensees shall
144 demonstrate their commitment to efforts to combat compulsive
145 gambling and a dedication to community mitigation, and shall
146 recognize that the privilege of licensure bears a concomitant

147 responsibility to identify, address and minimize any potential
148 negative consequences of their business operations;

149 (9) any license awarded by the commission shall be a revocable
150 privilege and may be conditioned, suspended or revoked upon: (i)
151 a breach of the conditions of licensure, (ii) any civil or
152 criminal violations of the laws of the commonwealth or other
153 jurisdictions; or (iii) a finding by the commission that a
154 licensee is unsuitable to operate a gaming establishment or
155 perform the duties of their licensed position;

156 (10) the power and authority granted to the commission shall
157 be construed as broadly as necessary for the implementation,
158 administration and enforcement of this chapter.

159 **Section 2.** As used in this chapter the following words shall,
160 unless the context clear requires otherwise, have the following
161 meanings:-

162 "Affiliate", a person who, directly or indirectly, controls or
163 is controlled by, or is under common control with, a specified
164 person.

165 "Applicant", any person who has applied for a license to engage
166 in activity regulated under this chapter.

167 "Application", a written request for a finding of suitability to
168 receive a license or engage in an activity which is regulated
169 under this chapter.

170 "Bureau", the investigations and enforcement bureau under the
171 commission.

172 "Business", a corporation, sole proprietorship, partnership,
173 limited liability company or any other organization formed for
174 the purpose of carrying on commercial enterprise.

175 "Category 1 license", a license issued by the commission that
176 permits the licensee to operate a gaming facility with table
177 games and slot machines .

178 "Category 2 license", a license issued by the commission to a
179 thoroughbred horse racing facility or to a harness racing
180 facility to operate up to 750 slot machines at its gaming
181 facility.

182 "Category 3 license", a license issued by the commission to a
183 greyhound racing facility to operate up to 750 slot machines at
184 its gaming facility.

185 "Chair", the chair of the commission.

186 "Cheat", alter the selection of criteria which determines the
187 results of a game or the amount or frequency of payment in a
188 game.

189 "Close associate", a person who holds any relevant financial
190 interest in, or is entitled to exercise any power in, the
191 business of an applicant or licensee and, by virtue of that
192 interest or power is able to exercise a significant influence
193 over the management or operation of a gaming establishment or
194 business licensed under this chapter.

195 "Conservator", a person appointed by the commission under
196 section 33 to temporarily manage the operation of a gaming
197 establishment.

198 "Credit card", a card, code or other device with which a person
199 may defer payment of debt, incur debt and defer its payment, or
200 purchase property or services and defer payment therefor, but
201 not a card, code or other device used to activate a preexisting
202 agreement between a person and a financial institution to extend
203 credit when the person's account at the financial institution is
204 overdrawn or to maintain a specified minimum balance in the
205 person's account at the financial institution.

206 "Credit instrument", a writing which evidences a gaming debt
207 owed to a person who holds a gaming license at the time the debt

208 is created, and includes any writing taken in consolidation,
209 redemption or payment of a previous credit instrument.

210 "Commission", the Massachusetts gaming commission.

211 "Commissioner", a member of the commission.

212 "Complimentary service or item" - a service or item provided at
213 no cost or at a reduced price.

214 "Deputy director", the director of the bureau.

215 "Division", the division of gaming enforcement under the office
216 of the attorney general.

217 "Executive director", the executive director of the
218 Massachusetts gaming commission.

219 "Foreign business", any business that was organized outside of
220 the United States or under the laws of a foreign country.

221 "Gambling", the playing of a game by a patron of a gaming
222 establishment.

223 "Game", any banking or percentage game played with cards, dice,
224 tiles, dominoes, or any electronic, electrical or mechanical
225 device or machine played for money, property, checks, credit or
226 any representative of value which has been approved by the
227 commission pursuant to this chapter.

228 "Gaming", the dealing, operating, carrying on, conducting,
229 maintaining or exposing for pay of any game.

230 "Gaming employee", any employee of a gaming establishment who
231 is: (i) directly connected to the operation or maintenance of
232 any slot machine or game taking place in the establishment, (ii)
233 provides security in a gaming establishment or (iii) has access
234 to a restricted area of the gaming establishment.

235 "Gaming establishment", any premise approved under a gaming
236 license which includes a gaming facility and any other nongaming
237 structures related thereto, including, but not limited to,
238 hotels, restaurants, or other amenities.

239 "Gaming facility", any premises of a gaming establishment
240 wherein or whereon any gaming is done.

241 "Gaming key employee", any employee of a gaming establishment:
242 (i) in a supervisory capacity, (ii) empowered to make
243 discretionary decisions which regulate gaming facility
244 operations or (iii) so designated by the commission.

245 "Gaming device" or "Gaming equipment", any electronic,
246 electrical, or mechanical contrivance or machine used in
247 connection with gaming or any game.

248 "Gaming license", a category 1, category 2 or category 3
249 license.

250 "Gaming licensee", any licensee who holds a category 1, category
251 2 or category 3 gaming license.

252 "Gaming position", a designated seat or standing position where
253 a patron of a gaming establishment can play a game.

254 "Gaming service employee", any employee of a gaming
255 establishment who is not classified as a gaming employee or a
256 gaming key employee. but is still required to register with the
257 commission.

258 "Gaming vendor", any person who offers goods or services to a
259 gaming applicant or licensee on a regular or continuing basis
260 which directly relates to gaming, including, but not limited to,
261 gaming equipment and simulcast wagering equipment manufacturers,
262 suppliers, repairers and independent testing laboratories.

263 "Greyhound racing facility", a greyhound racing facility located
264 in Suffolk or Bristol county that was licensed pursuant to
265 chapter 128A to conduct live greyhound racing in calendar year
266 2009; and (ii) is licensed pursuant to chapter 128C to conduct
267 simulcast wagering.

268 "Gross revenue" or "gross gaming revenue", the total of all
269 sums actually received by a gaming licensee from gaming
270 operations less the total of all sums paid out as winnings to
271 patrons; provided however, that the cash equivalent value of any

272 merchandise or thing of value included in a jackpot or payout
273 shall not be included in the total of all sums paid out as
274 winnings to patrons for the purpose of determining gross
275 revenue. Gross revenue shall not include any amount received by
276 a gaming licensee from simulcast wagering and shall not include
277 credit extended or collected by the licensee for purposes other
278 than gaming.

279 "Harness horse racing facility", a harness horse racing
280 facility located in Norfolk county that was licensed pursuant
281 to chapter 128A to conduct live harness horse racing in calendar
282 year 2009; and (ii) is licensed pursuant to chapter 128A to
283 conduct live harness horse racing and licensed pursuant to
284 chapter 128C to conduct simulcast wagering.

285 "Holding company", any corporation, association, firm,
286 partnership, trust or other form of business organization other
287 than a natural person which, directly or indirectly, owns, has
288 the power or right to control, or has the power to vote any
289 significant part of the outstanding voting securities of a
290 corporation or other form of business organization which holds
291 or applies for a gaming license. For the purposes of this
292 definition, in addition to other reasonable meaning of the words
293 used, a holding company indirectly has, holds or owns any such
294 power, right or security if it does so through any interest in a

295 subsidiary or successive subsidiaries, however many such
296 subsidiaries may intervene between the holding company and the
297 gaming licensee or applicant.

298 "Host community", any municipality in which a gaming
299 establishment is or may be located.

300 "Institutional investor", any of the following entities having
301 a 5 per cent or greater ownership interest in a gaming
302 establishment or gaming licensee: a corporation, bank, insurance
303 company, pension fund or pension fund trust, retirement fund,
304 including funds administered by a public agency, employees'
305 profit-sharing fund or employees' profit-sharing trust, an
306 association engaged, as a substantial part of its business or
307 operation, in purchasing or holding securities, or any trust in
308 respect of which a bank is a trustee or co-trustee, investment
309 company registered under the federal Investment Company Act of
310 1940, collective investment trust organized by banks under part
311 nine of the Rules of the Comptroller of Currency, closed end
312 investment trust, chartered or licensed life insurance company
313 or property and casualty insurance company, investment advisor
314 registered pursuant to the federal Investment Advisors Act of
315 1940, and such other persons as the commission may reasonably
316 determine to qualify as an institutional investor for reasons
317 consistent with this chapter.

318 "Intermediary company", any corporation, association, firm,
319 partnership, trust or any other form of business organization
320 other than a natural person which is a holding company with
321 respect to a corporation or other form of business organization
322 which holds or applies for a gaming license, and is a subsidiary
323 with respect to any holding company.

324 "Junket", an arrangement intended to induce any person to come
325 to a gaming establishment to gamble, where the person is
326 selected or approved for participation on the basis of his
327 ability to satisfy a financial qualification obligation related
328 to his ability or willingness to gamble or on any other basis
329 related to his propensity to gamble, and pursuant to which, and
330 as consideration for which, any or all of the cost of
331 transportation, food, lodging, and entertainment for said person
332 is directly or indirectly paid by a gaming licensee or affiliate
333 thereof.

334 "Junket enterprise", any person, other than an applicant for a
335 gaming license or gaming licensee, who employs or otherwise
336 engages the services of a junket representative in connection
337 with a junket to a licensed casino, regardless of whether or not
338 those activities occur within the commonwealth.

339 "Junket representative", any individual who negotiates the terms
340 of, or engages in the referral, procurement or selection of

341 persons who may participate in, any junket to a gaming
342 establishment, regardless of whether or not those activities
343 occur within the commonwealth.

344 "License", any license required under this chapter.

345 "List", the list of excluded persons maintained by the
346 commission pursuant to section 39.

347 "Lottery", the Massachusetts state lottery established pursuant
348 to section 23 of chapter 10.

349 "Major policy making position", the executive or administrative
350 head or heads of the commission and any person whose salary
351 equals or exceeds that of a state employee classified in step
352 one of job group XXV of the general salary schedule contained in
353 section 46 of chapter 30 and who reports directly to said
354 executive or administrative head; the head of each bureau,
355 bureau, or other major administrative unit within the commission
356 and persons exercising similar authority.

357 "Operation certificate", a certificate issued by the commission
358 pursuant to section 27.

359 "Qualification" or "qualified", the process of licensure set
360 forth by the commission to determine that all persons who have a
361 professional interest in a gaming license, or gaming vendor
362 license, or the business of a gaming licensee or gaming

363 vendor, meet the same standards of suitability to operate or
364 conduct business with a gaming establishment in the
365 commonwealth.

366 "Person", any individual, corporation, association, operation,
367 firm, partnership, trust or other form of business association.

368 "Promotional gaming credit", a slot machine credit or other item
369 issued by a gaming licensee to a patron for the purpose of
370 enabling the placement of a wager at a slot machine.

371 "Regulated entity", any person engaged in any business which
372 is, or the persons engaged in which are, in any respect made
373 subject to the supervision or regulation of the commission by
374 any provision of law.

375 "Resort casino", a gaming establishment that includes a gaming
376 facility, at least 1 hotel and may include other non-gaming
377 amenities, such as entertainment venues, retail stores,
378 recreational facilities and restaurants.

379 "Slot machine", any mechanical, electrical or other device,
380 contrivance or machine which, upon insertion of a coin, token or
381 similar object therein, or upon payment of any consideration
382 whatsoever, is available to play or operate, the play or
383 operation of which, whether by reason of the skill of the
384 operator or application of the element of chance, or both, may

385 deliver or entitle the individual playing or operating the
386 machine to receive cash or tokens to be exchanged for cash, or
387 to receive merchandise or anything of value whatsoever, whether
388 the payoff is made automatically from the machine or in any
389 other manner whatsoever, except that the cash equivalent value
390 of any merchandise or other thing of value shall not be included
391 in determining the payout percentage of any slot machine.

392 "State police", the Massachusetts state police established
393 pursuant to chapter 22C.

394 "Subsidiary", any corporation, any significant part of whose
395 outstanding equity securities are owned, subject to a power or
396 right of control, or held with power to vote, by a holding
397 company or an intermediary company; or a significant interest in
398 any firm, association, partnership, trust or other form of
399 business organization, other than a natural person, which is
400 owned, subject to a power or right of control, or held with
401 power to vote, by a holding company or an intermediary company.

402 "Table game", any game, other than a slot machine, which is
403 authorized by the commission to be played in a gaming facility.

404 "Thoroughbred horse racing facility", a thoroughbred racing
405 facility located in Suffolk county that was licensed pursuant to
406 chapter 128A to conduct live running horse racing in calendar

407 year 2009; and (ii) is licensed pursuant to chapter 128A to
408 conduct live harness horse racing and licensed pursuant to
409 chapter 128C to conduct simulcast wagering.

410 "Transfer", the sale and every other method, direct or indirect,
411 of disposing of or parting with property or with an interest
412 therein, or with the possession thereof, or of fixing a lien
413 upon property or upon an interest therein, absolutely or
414 conditionally, voluntarily or involuntarily, by or without
415 judicial proceedings, as a conveyance, sale, payment, pledge,
416 mortgage, lien, encumbrance, gift, security or otherwise; the
417 retention of a security interest in property delivered to a
418 corporation shall be deemed a transfer suffered by such
419 corporation.

420 "Wager", a sum of money or representative of value that is
421 risked on an occurrence for which the outcome is uncertain.

422 **Section 3.** (a) There shall be established a Massachusetts gaming
423 commission which shall consist of 5 commissioners who shall be
424 appointed by a majority vote of the governor, attorney general
425 and state treasurer, 1 of whom shall have experience in legal
426 and policy issues related to gaming, 1 of whom shall have
427 experience in corporate finance and securities, 1 of whom shall
428 have experience with criminal investigations and law
429 enforcement, 1 of whom shall be a certified public accountant

430 who has a comprehensive knowledge of corporate auditing, and 1
431 of whom shall have at least 5 years experience in public or
432 business administration. The governor, attorney general and
433 treasurer shall, by majority vote, appoint a commissioner to
434 serve as chair. The commissioner appointed to chair shall serve
435 in such capacity throughout such commissioner's entire term and
436 until his successor shall be been appointed. Prior to
437 appointment a background investigation shall be conducted into
438 the financial stability, integrity and responsibility of a
439 candidate for appointment to the commission as well as the
440 candidate's reputation for good character, honesty and
441 integrity. No person who has been convicted of a felony shall be
442 eligible to serve on the commission.

443 (b) Each commissioner shall be a resident of the commonwealth
444 and, while serving on the commission, shall not: (i) hold, or be
445 a candidate for, federal, state or local elected office; (ii)
446 hold an appointed office in federal, state, or local government;
447 or (iii) serve as an official in a political party. Not more
448 than 3 commissioners shall be from the same political party.

449 (c) Each commissioner shall serve for a term of 5 years or
450 until a successor is appointed and shall be eligible for
451 reappointment; provided, however, that no commissioner shall
452 serve more than 10 years. Any person appointed to fill a vacancy

453 in the office of a commissioner shall be appointed in a like
454 manner and shall serve for only the unexpired term of such
455 commissioner. Any commissioner may be removed from his
456 appointment only for cause and upon a unanimous vote of the
457 governor, the attorney general and the state treasurer which
458 shall be final and not subject to review.

459 (d) Three commissioners shall constitute a quorum and the
460 affirmative vote of a majority of the commissioners present
461 shall be necessary for any action to be taken by the commission
462 at a duly called meeting.

463 Commissioners shall receive salaries equal to the salary of
464 the commissioner of administration established pursuant to
465 section 4 of chapter 7; provided, however, that the chair shall
466 receive a stipend, in addition to the base salary, in an amount
467 equal to 7 per cent of the base salary. Commissioners shall
468 devote their full time and attention to the duties of their
469 office.

470 (e) The commission shall annually elect 1 of its commissioners
471 to serve as secretary and 1 of its members to serve as
472 treasurer. The secretary shall keep a record of the proceedings
473 of the commission and shall be the custodian and keeper of the
474 records of all books, documents, and papers filed by the
475 commission and of its minute book. The secretary shall cause

476 copies to be made of all minutes and other records and documents
477 of the commission and shall certify that such copies are true
478 copies, and all persons dealing with the commission may rely
479 upon such certification.

480 (f) The chair shall have and exercise supervision and control
481 over all the affairs of the commission. He shall preside at all
482 hearings at which he is present, and shall designate a
483 commissioner to act as chair in his absence. He shall not,
484 except as is otherwise provided herein, be charged with any
485 administrative functions. To promote efficiency in
486 administration, he shall from time to time make such division or
487 re-division of the work of the commission among the
488 commissioners as he deems expedient. All of the commissioners
489 shall, if so directed by the chair, participate in the hearing
490 and decision of any matter before the commission. In the hearing
491 of all matters other than those of formal or administrative
492 character coming before the commission, at least 2 commissioners
493 shall participate and in the decision of all such matters at
494 least 2 commissioners shall participate; provided, however, that
495 any such matter may be heard, examined and investigated by an
496 employee of the commission designated and assigned thereto by
497 the chair with the concurrence of 1 other commissioner. Such
498 employee shall make a report in writing relative to every such

499 matter to the commission for its decision thereon. For the
500 purposes of hearing, examining and investigating any such matter
501 such employee shall have all of the powers conferred upon a
502 commissioner by this section, and all pertinent provisions of
503 this section shall apply to such proceedings. In every hearing
504 the concurrence of a majority of the commissioners participating
505 in the decision shall be necessary therefor.

506 (g) The commission shall appoint an executive director. The
507 executive director shall serve at the pleasure of the
508 commission, shall receive such salary as may be determined by
509 the commission, and shall devote full time and attention to the
510 duties of the office. The executive director shall be a person
511 with skill and experience in management and shall be the
512 executive and administrative head of the commission and shall be
513 responsible for administering and enforcing the provisions of
514 law relative to the commission and to each administrative unit
515 thereof. The executive director shall appoint and employ a chief
516 financial and accounting officer and may, subject to the
517 approval of the commission, employ other employees, consultants,
518 agents, and advisors, including legal counsel, and shall attend
519 meetings of the commission. The chief financial and accounting
520 officer of the commission shall be in charge of its funds, books
521 of account and accounting records. No funds shall be transferred

522 by the commission without the approval of the commission and the
523 signatures of the chief financial and accounting officer and the
524 treasurer.

525 In the case of an absence or vacancy in the office of the
526 executive director, or in the case of disability as determined
527 by the commission, the commission may designate an acting
528 executive director to serve as executive director until the
529 vacancy is filled or the absence or disability ceases. The
530 acting executive director shall have all the powers and duties
531 of the executive director and shall have similar qualifications
532 as the executive director.

533 (h) The executive director may from time to time, subject to
534 the approval of the commission, establish within the commission
535 such administrative units as may be necessary for the efficient
536 and economical administration of the commission, and when
537 necessary for such purpose, may abolish any such administrative
538 unit, or may merge any 2 or more units. The executive director
539 shall prepare and keep current a plan of the organization of the
540 commission, of the assignment of its functions to its various
541 administrative units, offices and employees, and of the places
542 at which and the methods whereby the public may receive
543 information or make requests. A current copy of the plan of

544 organization shall be kept on file with the state secretary and
545 in the office of the secretary of administration.

546 (i) The executive director may appoint such persons as he
547 shall deem necessary to perform the functions of the commission;
548 provided that chapter 31 and section 9A of chapter 30 shall not
549 apply to any commission employee. If an employee serving in a
550 position which is classified under said chapter 31 or in which
551 an employee has tenure by reason of said section 9A of chapter
552 30 shall be appointed to a position within this office which is
553 not subject to the provisions of said chapter 31, the employee
554 shall, upon termination of his service in such position, be
555 restored to the position which he held immediately prior to such
556 appointment; provided, however, that his service in such
557 position shall be determined by the civil service commission in
558 accordance with the standards applied by said commission in
559 administering said chapter 31. Such restoration shall be made
560 without impairment of his civil service status or tenure under
561 said section 9A of chapter 30 and without loss of seniority,
562 retirement or other rights to which uninterrupted service in
563 such prior position would have entitled him. During the period
564 of such appointment, each person so appointed from a position in
565 the classified civil service shall be eligible to take any
566 competitive promotional examination for which he would otherwise

567 have been eligible. The executive director shall consider
568 current employees of the state racing commission as eligible for
569 employment with the commission and shall transfer said employees
570 into the commission if qualified under this chapter.

571 The commission may require a prospective employee to: (i)
572 submit an application and a personal disclosure on a form
573 prescribed by the commission which shall include a complete
574 criminal history, including convictions and current charges for
575 all felonies and misdemeanors; (ii) undergo testing which
576 detects the presence of illegal substances in the body; or (iii)
577 provide fingerprints and a photograph consistent with standards
578 adopted by the state police. The commission shall verify the
579 identification, employment and education of each prospective
580 employee, including: (i) legal name, including any alias; (ii)
581 all secondary and post secondary educational institutions
582 attended regardless of graduation status; (iii) place of
583 residence; and (iv) employment history.

584 The commission shall not hire a prospective employee if the
585 prospective employee has: (i) been convicted of a felony or a
586 misdemeanor that, in the discretion of the commission, bears a
587 close relationship to the duties and responsibilities of the
588 position for which employment is sought; (ii) been dismissed
589 from prior employment for gross misconduct or incompetence; or

590 (iii) intentionally made a false statement concerning a material
591 fact in connection with the application to the commission. If
592 an employee of the commission is charged with a felony or
593 misdemeanor while employed by the commission, the commission may
594 suspend the employee or terminate employment with the
595 commission.

596 (j) The provisions of chapters 268A and 268B shall apply to
597 all commissioners and employees of the commission; provided,
598 however, that the commission shall establish a code of ethics
599 for all members and employees that is more restrictive than said
600 chapter 268A or 268B. A copy of such code shall be filed with
601 the state ethics commission. The code shall include provisions
602 reasonably necessary to carry out the purposes of this chapter
603 and any other laws subject to the jurisdiction of the commission
604 including, but not limited to: (i) prohibiting the receipt of
605 gifts by a commissioner and employee from any gaming licensee,
606 applicant, close associate, affiliate or other person or entity
607 subject to the jurisdiction of the commission; (ii) prohibiting
608 the participation by a commissioner and employee in any
609 particular matter as defined by section 1 of chapter 268A that
610 affects the financial interest of any relative within the third
611 degree of consanguinity or person with whom such commissioner or
612 employee has a significant relationship as defined by such code;

613 and (iii) for recusal of a commissioner in any licensing
614 decision due to a potential conflict of interest.

615 (k) Immediately upon assuming office, each commissioner and
616 employee of the commission, except for secretarial and clerical
617 personnel, shall swear or affirm that the commissioner or
618 employee possesses no interest in any regulated entity.

619 (l) No individual shall be employed by the commission if,
620 during the period commencing 3 years prior to employment, that
621 individual held any direct or indirect interest in, or was
622 employed by a licensee under this chapter.

623 (m) No employee of the commission shall pursue any other
624 business or occupation or other gainful employment outside of
625 the commission without the prior written approval of the
626 commission that such employment shall not interfere or be in
627 conflict with the employee's duties to the commission.

628 (n) No commissioner shall hold any direct or indirect interest
629 in, or be employed by, any applicant or by any person licensed
630 by the commission for a period of 3 years after the termination
631 of employment with the commission.

632 No employee of the commission holding a major policy making
633 position shall acquire interest in, or accept employment with,

634 any applicant or licensee under this chapter for a period of 2
635 years after the termination of employment with the commission.

636 No employee of the commission in a non-major policy making
637 position shall acquire interest in, or accept employment with,
638 any applicant or licensee under this chapter for a period of 1
639 year after termination of employment with the commission.

640 (o) Any commission employee assigned to a gaming facility
641 shall be considered an essential state employee.

642 (p) No commissioner or employee, other than in the performance
643 of his official duties, shall place a wager in any licensed
644 entity.

645 (q) The commissioners, executive director and those employees
646 holding a major policy-making position shall be sworn to the
647 faithful performance of their official duties. Each
648 commissioner, executive director and those employees holding a
649 major policy making position shall conduct themselves in a
650 manner so as to render decisions that are fair and impartial and
651 in the public interest; avoid impropriety and the appearance of
652 impropriety in all matters under their jurisdiction; avoid all
653 prohibited communications; require staff and personnel subject
654 to their direction and control to observe the same standards of
655 fidelity and diligence; disqualify themselves from proceedings

656 in which their impartiality might reasonably be questioned; and
657 refrain from financial or business dealings which would tend to
658 reflect adversely on impartiality.

659 (r) The commissioners and employees shall not own, or be in
660 the employ of, or own any stock in, any business which holds a
661 license under this chapter, nor shall they have in any way
662 directly or indirectly a pecuniary interest in, or be connected
663 with, any such business or in the employ or connected with any
664 person financing any such business; provided further, that
665 immediate family members of commissioners and employees holding
666 major policy making positions shall not own, or be in the employ
667 of, or own stock in, any business which holds a license under
668 this chapter. The commissioners and employees shall not
669 personally, or through any partner or agent, render any
670 professional service or make or perform any business contract
671 with or for any regulated entity, except contracts made with the
672 commissioners for furnishing of services, nor shall he or she
673 directly or indirectly receive any commission, bonus, discount,
674 gift or reward from any regulated entity.

675 (s) Neither the commission nor any of its officers, agents,
676 employees, consultants or advisors shall be subject to the
677 provisions of sections 9A, 45, 46 and 52 of chapter 30, or to
678 chapter 31, or to chapter 200 of the acts of 1976.

679 (t) The Massachusetts gaming commission shall be a commission
680 for the purposes of section 3 of chapter 12.

681 **Section 4.** The commission shall have all powers necessary or
682 convenient to carry out and effectuate its purposes, including,
683 but not limited to, the power to:

- 684 (1) appoint officers and hire employees;
- 685 (2) establish, and from time to time amend, such a plan of
686 organization as it may deem expedient pursuant to
687 subsection (h) of section 3;
- 688 (3) execute all instruments necessary or convenient
689 thereto for accomplishing the purposes of this chapter;
- 690 (4) enter into agreements or other transactions with any
691 person, including, but not limited to, any public entity or
692 other governmental instrumentality or authority in
693 connection with its powers and duties under this chapter;
- 694 (5) appear on its own behalf before boards, commissions,
695 departments or other agencies of municipal, state or
696 federal government;
- 697 (6) apply for and accept subventions, grants, loans,
698 advances and contributions from any source of money,
699 property, labor or other things of value, to be held, used
700 and applied for its purposes;

(7) provide and pay for advisory services and technical assistance as may be necessary in its judgment to carry out the purpose of this chapter and fix their compensation;

(8) prepare, publish and distribute, with or without charge, as the commission may determine, such studies, reports and bulletins and other material as the commission deems appropriate;

(9) assure that licenses shall not be issued to nor held by, nor shall there be any material involvement, directly or indirectly, with a gaming operation or the ownership thereof, by unqualified, disqualified, or unsuitable persons or persons whose operations are conducted in a manner not conforming with this chapter;

(10) require any person to apply for a license as provided in this chapter and approve or disapprove any such application or other transactions, events, and processes as provided in this chapter;

(11) require any person who has any kind of business association with a gaming licensee or applicant to be qualified for licensure under this chapter;

(12) develop criteria, in addition to those outlined in this chapter, to assess which applications for gaming licenses will provide the highest and best value to the commonwealth;

(13) determine which applicants shall be awarded gaming licenses and other licenses in accordance with the terms of this chapter;

(14) gather facts and information applicable to the commission's obligation to issue, suspend or revoke licenses, work permits, or registrations granted to any person for: (i) violation of any provision of this chapter or regulation adopted hereunder; (ii) willfully violating an order of the commission directed to such person; (iii) the conviction of any criminal offense under this chapter; or (iv) the commission of any violation of this chapter or other offense which would disqualify such person from holding a license, work permit or registration;

(15) conduct investigations into the qualifications of all applicants for employment by the commission and by any regulated entity and all applicants for licensure;

(16) request and receive from the state police, the criminal history systems board, or other criminal justice agencies, including but not limited to the United States Federal Bureau of Investigation and the federal Internal Revenue Service, such criminal offender record information relating to criminal and background investigations as necessary for the purpose of evaluating employees of, and applicants for employment by, the commission and any

regulated entity, and evaluating licensees and applicants for licensure.

(17) be present through its inspectors and agents at all times in gaming establishments for the purposes of: (i) certifying the revenue thereof, (ii) receiving complaints from the public relating to the conduct of gaming and wagering operations, (iii) examining records of revenues and procedures, inspecting and auditing all books, documents, and records of any licensee, (iv) conducting periodic reviews of operations and facilities for the purpose of regulations adopted thereunder, and (v) otherwise exercising its oversight responsibilities with respect to gaming;

(18) inspect and have access to all equipment and supplies in any licensed gaming establishment or in any premises where gaming equipment is manufactured, sold or distributed;

(19) seize and remove from the premises of any gaming licensee and impound any equipment, supplies, documents or records for the purpose of examination and inspection;

(20) demand access to and inspect, examine, photocopy and audit all papers, books and records of any affiliate of a licensee whom the commission suspects is involved in the financing, operation or management of the licensee. The

773 inspection, examination, photocopying and audit may take
774 place on the affiliate's premises or elsewhere as
775 practicable, and in the presence of the affiliate or its
776 agent;

777 (21) require that the books and financial or other records
778 or statements of any licensee be kept in a manner that the
779 commission deems proper;

780 (22) levy and collect assessments, fees and fines and
781 impose penalties and sanctions for the violation of this
782 chapter and the regulations promulgated hereunder;

783 (23) collect taxes;

784 (24) restrict, suspend or revoke licenses issued under this
785 chapter;

786 (25) conduct adjudicatory proceedings and promulgate
787 regulations in accordance with the provisions of chapter
788 30A;

789 (26) refer cases for criminal prosecution to the
790 appropriate federal, state or local authorities;

791 (27) issue subpoenas and compel the attendance of witnesses
792 at any place within the commonwealth, administer oaths and
793 require testimony under oath before the commission in the
794 course of any investigation or hearing conducted under this
795 chapter; and

796 (28) maintain an official Internet website for the
797 commission;

798 (29)

799 (30) adopt, amend, or repeal regulations for the
800 administration and enforcement of this chapter. Act as
801 trustees for any gaming related trust funds.

802

803 Section 5. The commission shall promulgate regulations for the
804 implementation, administration and enforcement of this chapter
805 including without limitation regulations that:

806 (1) prescribe the method and form of application which any
807 applicant for licensure shall follow and complete before
808 consideration of an application by the commission;

809 (2) prescribe the information to be furnished by any applicant
810 or licensee concerning his antecedents, habits, character,
811 associates, criminal record, business activities and financial
812 affairs, past or present;

813 (3) prescribe the information to be furnished by a gaming
814 licensee relating to his gaming employees;

815 (4) require fingerprinting of an applicant for a gaming
816 license, a gaming licensee or employee of a gaming licensee or
817 other methods of identification;

818 (5) prescribe the manner and method of collection and payment
819 of fees and issuance of licenses;

820 (6) prescribe grounds and procedures for the revocation or
821 suspension of licenses;

822 (7) require quarterly financial reports and an annual audit
823 prepared by a certified public accountant attesting to the
824 financial condition of a gaming licensee and disclosing whether
825 the accounts, records and control procedures examined are
826 maintained by the gaming licensee as required by this chapter
827 and the regulations promulgated thereunder;

828 (8) prescribe the minimum procedures for effective control
829 over the internal fiscal affairs of a gaming licensee, including
830 provisions for the safeguarding of assets and revenues, the
831 recording of cash and evidence of indebtedness and the
832 maintenance of reliable records, accounts and reports of
833 transactions, operations and events, including reports by the
834 commission;

835 (9) provide for a minimum uniform standard of accounting
836 procedures;

837 (10) establish licensure and work permits for employees
838 working at the gaming establishment and minimum training
839 requirements; provided further that the commission may establish
840 certification procedures for any training schools in the

841 commonwealth as well as the minimum requirements for reciprocal
842 licensing for out of out-of-state gaming employees; and

843 (11) require that all gaming establishment employees be
844 properly trained in their respective professions.

(12) require the posting of payback statistics of slot machines
played in a gaming facility; and

845 (13) require that all gaming establishments have security
846 patrols outside the gaming establishments who conduct regular
847 checks of parking areas for minors left in motor vehicles and
848 shall immediately report any such finding to security personnel
849 at the gaming establishment.

850 The commission may, pursuant to section 2 of chapter 30A,
851 promulgate, amend, or repeal any regulation promulgated under
852 this chapter as an emergency regulation if such regulation is
853 necessary to protect the interests of the commonwealth in
854 regulating a gaming establishment.

855

856 **Section 6.** The commission shall administer and enforce chapter
857 128A and 128C and any other general or special law related to
858 pari-mutuel wagering or simulcasting. The commission shall serve
859 as a host racing commission and an off-track betting commission
860 for purposes of 15 U.S.C.A.30001, et seq.

861 **Section 7.** (a) In addition to any other tax or fee imposed by
862 this chapter, there shall be imposed an annual license fee of

863 \$600 for each machine approved by the commission for use by a
864 gaming licensee at a gaming establishment; provided, however,
865 that, no sooner than 5 years after award of original license the
866 commission may annually adjust the fee for inflation. The fee
867 shall be imposed as of July 1 of each year for all approved slot
868 machines on that date and shall be assessed on a pro rata basis
869 for any slot machine approved for use thereafter during the
870 year.

871 (b) The commission shall, by regulation, establish fees for
872 any investigation into a violation of this chapter or regulation
873 promulgated thereunder by a gaming licensee to be paid by the
874 licensee, including, but not limited to, billable hours by
875 commission staff involved in the investigation and the costs of
876 services, equipment or other expenses that are incurred by the
877 commission during the investigation.

878 (c) Any remaining costs of the commission necessary to
879 maintain regulatory control over gaming establishments that are
880 not covered by: (i) the fees set forth in subsections (a) and
881 (b), (ii) any other fees assessed pursuant to this chapter or
882 (ii) any other designated source of funding shall be assessed
883 annually on gaming licensees under this chapter in proportion to
884 the number of gaming positions at each gaming facility. Each

885 licensee shall pay the amount assessed against it within 30 days
886 after the date of the notice of assessment from the commission.

887 (d) If the fees collected in subsections (a) and (b) exceed
888 the cost required to maintain regulatory control, the surplus
889 funds shall be credited in proportional shares against each
890 gaming licensee's next assessment.

891 (e) In addition to the fees collected under this section and
892 any additional costs of the commission, the commission shall
893 assess an annual fee of not less than \$5,000,000 in proportional
894 shares against each gaming licensee in proportion to the number
895 of gaming positions at each gaming facility for the costs of
896 service and public health programs dedicated to addressing
897 problems associated with compulsive gambling. Such assessed fees
898 shall be deposited into the Public Health Trust Fund established
899 pursuant to section 9.

900 (f) All fees and assessments collected under this section,
901 except those collected pursuant to subsection (e), shall be
902 deposited into the Gaming Control Fund established pursuant to
903 section 8.

904 **Section 8.** (a) There shall be established and set up on the
905 books of the commonwealth a separate fund to be known as the
906 Massachusetts Gaming Control Fund, hereinafter in this section

907 referred to as the fund. The commission shall be the trustee of
908 the fund expend monies to finance operational activities of the
909 commission. The fund shall be credited any appropriations, bond
910 proceeds or other monies authorized by the general court and
911 specifically designated to be credited thereto, the proceeds of
912 the assessments levied pursuant to section 7, application fees
913 for licenses issued under this chapter and such additional funds
914 as are subject to the direction and control of the commission.
915 All available monies in the fund that are unexpended at the end
916 of each fiscal year shall not revert to the General Fund and
917 shall be available for expenditure in the subsequent fiscal
918 year. Any funds unexpended in any fiscal year for the purposes
919 of which such assessments were made shall be credited against
920 the assessment to be made in the following fiscal year and the
921 assessment in the following fiscal year shall be reduced by any
922 such unexpended amount. The commission shall record all
923 expenditures made by subsidiary on the Massachusetts management
924 and accounting reporting system, so-called according to
925 regulations established by the state comptroller.

926 (b) The commission shall, for the purposes of compliance with
927 state finance law, operate as a state agency as defined in
928 section 1 of chapter 29 and shall be subject to the provisions
929 applicable to agencies under the control of the governor

930 including, but not limited to, chapter 7A, chapter 7, chapter 10
931 and chapter 29; provided, however, that the comptroller may
932 identify any additional instructions or actions necessary for
933 the commission to manage fiscal operations in the state
934 accounting system and meet statewide and other governmental
935 accounting and audit standards. Unless otherwise exempted by law
936 or the applicable central service agency, the commission shall
937 participate in any other available commonwealth central services
938 including, but not limited, to the state payroll system pursuant
939 to section 31 of chapter 29, and may purchase other goods and
940 services provided by state agencies in accordance with
941 comptroller provisions. The comptroller may chargeback the
942 commission for the transition and ongoing costs for
943 participation in the state accounting and payroll systems and
944 may retain and expend such costs without further appropriation
945 for the purposes of this section. The commission shall be
946 subject to section 5D of chapter 29 and subsection (f) of
947 section 6B of chapter 29.

948 The commission shall annually submit a finance plan to the
949 secretary of administration and finance, the chairs of the house
950 and senate committees on ways and means and the chairs of the
951 joint committee on economic development and emerging
952 technologies.

953 **Section 9.** There is hereby established and placed on the books
954 of the commonwealth a separate fund to be known as the Public
955 Health Trust Fund. The public health trust fund shall consist of
956 fees assessed pursuant to section 7 and all other monies
957 credited or transferred to said fund from any other source
958 pursuant to law. The secretary of health and human services
959 shall be the trustee of the public health trust fund and shall
960 expend monies in the fund, without further appropriation, to
961 assist social service and public health programs dedicated to
962 addressing problems associated with compulsive gambling,
963 including, but not limited to, gambling prevention and addiction
964 services, educational campaigns to mitigate the potential
965 addictive nature of gambling and any studies and evaluations
966 necessary to ensure the proper and most effective strategies.

967 **Section 10.** (a) The commission shall issue a request for
968 applications for gaming licenses which shall include:

969 (i) the time and date for receipt of responses to the
970 request for applications, the manner they are to be received and
971 the address of the office to which the applications are to be
972 delivered;

973 (ii) the form of the application and the method for
974 submission;

975 (iii) a general description of the anticipated schedule for
976 processing the application;

977 (iv) the contact information of commission employees
978 responsible for handling applicant questions; and

979 (v) any other information that the commission determines.

980 (b) Any request for applicants in subsection (a) shall be
981 advertised in a newspaper of general circulation in the
982 commonwealth and on the official internet website of the
983 commission.

984 (c) The commission shall establish deadlines for the receipt
985 of all applications for a gaming license. Applications received
986 after the deadline shall not be eligible for review by the
987 commission. Applicants who are eligible for a category 2 or
988 category 3 license who choose to apply for a category 1 license
989 shall submit applications for both gaming licenses by the
990 deadline set by the commission.

991 **Section 11.** (a) All applicants for a gaming license, and any
992 person required by the commission to be qualified for licensure,
993 shall establish their individual qualifications for licensure to
994 the commission by clear and convincing evidence.

995 (b) All applicants, licensees, registrants and any other
996 person who shall be qualified pursuant to this chapter shall

997 have the continuing duty to provide any assistance or
998 information required by the commission and to cooperate in any
999 inquiry or investigation conducted by the commission. Refusal
1000 to answer or produce information, evidence or testimony by an
1001 applicant, licensee, registrant or person required to be
1002 qualified under this chapter may result in denial of the
1003 application or suspension or revocation of license or
1004 registration by the commission.

1005 (c) No applicant, licensee, registrant or person required to
1006 be qualified under this chapter shall willfully withhold
1007 information from, or knowingly give false or misleading
1008 information to, the commission.

1009 If the commission determines that an applicant or a close
1010 associate of an applicant, has willfully provided false or
1011 misleading information, such applicant shall no longer be
1012 eligible to receive a license under this chapter.

1013 Any licensee or other person required to be qualified for
1014 licensure under this chapter who willfully provides false or
1015 misleading information shall have their license conditioned,
1016 suspended or revoked by the commission.

1017 **Section 12.** (a) The commission shall have the power to require
1018 anyone with an interest in the gaming establishment, an interest

1019 in the business of the gaming licensee or who is a close
1020 associate of a gaming licensee to be qualified for licensure
1021 under this chapter pursuant to the criteria set forth in
1022 sections 14 and 19.

1023 (b) For every business which applies for a gaming license,
1024 the commission shall determine whether each officer and director
1025 of a corporation, other than a publicly traded corporation,
1026 general partner and limited partner of a limited partnership,
1027 and member, transferee of a member's interest in a limited-
1028 liability company, director and manager of a limited-liability
1029 company which holds or applies for a gaming license meets the
1030 standards for qualification of licensure pursuant to sections 14
1031 and 19, as well as, in the judgment of the commission, any or
1032 all of a business's individual stockholders, lenders, holders of
1033 evidence of indebtedness, underwriters, key executives, agents
1034 or employees.

1035 (c) Any person owning more than 5 per cent of the common stock
1036 of the applicant company or a holding, intermediary or
1037 subsidiary of an applicant company shall be required to file for
1038 licensure. The commission may waive the licensing requirements
1039 for institutional investors holding up to 15 per cent of the
1040 stock of the applicant company or holding, intermediary or
1041 subsidiary company of the applicant company upon a showing by

1042 the person seeking the waiver that the applicant purchased the
1043 securities for investment purposes only and does not have any
1044 intention to influence or affect the affairs or operations of
1045 the applicant company or a holding, intermediary or subsidiary
1046 of the applicant company. Any institutional investor granted a
1047 waiver which subsequently determines to influence or affect the
1048 affairs or operations of the applicant company or a holding,
1049 intermediary or subsidiary of the applicant company shall
1050 provide not less than 30 days notice to the commission of such
1051 intent and shall file an application and be subject to the
1052 licensing requirements of this chapter before taking any action
1053 that may influence or affect the affairs of the applicant
1054 company or a holding, intermediary or subsidiary of the
1055 applicant company. Any company holding over 15 per cent of the
1056 applicant company, or a holding, intermediary or subsidiary of
1057 an applicant company shall be deemed to be a qualifier and shall
1058 file an application form with the commission and be subject to
1059 the licensing requirements of this chapter.

1060 (d) A person who is required to be qualified for licensure by
1061 this section as a general or limited partner shall not serve in
1062 that position until he secures the required approval of the
1063 commission.

(e) The commission shall require any person involved in the financing of a gaming facility to be qualified for licensure pursuant to sections 14 and 19 and may allow such person to seek a waiver pursuant to the standards in subsection (c).

(f) A person required to be qualified for licensure shall apply for qualification within 30 days after taking a position with the business. A person who is required to be qualified for licensure pursuant to a decision of the commission shall apply for qualification within 30 days after said decision.

(g) If a corporation or other form of business organization applying for a gaming license is, or if a corporation or other form of business organization holding a gaming license is to become, a subsidiary, each holding company, intermediary company, and other entity shall be required to qualify for licensure.

(h) The commission shall have the authority to require the licensing of any company or individual that can presently or was able to exercise control or provide direction to any applicant or licensee company or a holding, intermediary or subsidiary of an applicant or licensee company.

Section 13. The commission shall deny an application for a gaming license, or any license or registration issued under this

chapter, if the applicant: (i) has been convicted of a felony or other convictions involving embezzlement, theft, fraud or perjury; provided, however that for convictions which occurred before the 10-year period immediately preceding application for licensure, an applicant may demonstrate, and the commission shall consider, their rehabilitation and why such conviction should not be an automatic disqualification under this section; (ii) submitted an application for a license under this chapter that contains false or misleading information; (iii) committed prior acts which have not been prosecuted or convicted but form a pattern of misconduct that make the applicant unsuitable for a license under this chapter; or (iv) has affiliates or close associates that would not qualify under the provisions of this chapter or whose relationship with the applicant could pose an injurious threat to the interests of the commonwealth in awarding a gaming license to the applicant.

Section 14. No applicant shall be eligible to receive a gaming license unless the applicant meets the following criteria and clearly states as part of an application that the applicant:

(1) agrees to be a state lottery reseller for the purpose of lottery, multi-jurisdictional lottery and keno games, and to demonstrate that state lottery and keno games are readily accessible to its guests;

1109 (2) has suitable capital to finance its operations and the
1110 proposed capital investment; provided, however, that such
1111 investment shall not include the purchase or lease price of the
1112 land where the gaming establishment will be located or any
1113 infrastructure designed to support the site, including, but not
1114 limited to, drainage, utility support, roadways, interchanges,
1115 fill and soil or groundwater or surface water contamination
1116 issues whether or not the applicant is an eligible owner or
1117 operator under chapter 206 of the acts of 1998;

1118 (3) will have ownership of the land where the gaming
1119 establishment will be located within 60 days after a license has
1120 been awarded;

1121 (4) shall demonstrate that it is able to pay and shall commit
1122 to paying the gaming licensing fee;

1123 (5) shall demonstrate to the commission how the applicant
1124 proposes to address lottery mitigation, compulsive gambling
1125 problems, workforce development and community development and
1126 all host community impact and mitigation issues.

1127 (6) shall identify the infrastructure costs of the host and
1128 surrounding communities incurred in direct relation to the
1129 construction and operation of a gaming establishment and shall
1130 commit to a community mitigation plan for those communities;

1131 (7) shall provide to the commission a signed agreement between
1132 the host community and the applicant setting forth the
1133 conditions to have a gaming establishment located within the
1134 host community; provided that the agreement shall include a
1135 community impact fee for the host community and all stipulations
1136 of responsibilities between the host community and the
1137 applicant; and

1138 (8) shall comply with state and local building codes.

1139 **Section 15.** (a) In addition to the requirements set forth in
1140 section 14, no business shall be eligible to apply for a gaming
1141 license unless it: (i) is organized under the laws of the
1142 commonwealth, although such business organization may be a
1143 wholly or partially owned subsidiary of a foreign business; (ii)
1144 maintains an office in the gaming establishment; (iii) maintains
1145 a ledger in the gaming establishment of the business
1146 organization reflecting the current ownership of the business
1147 organization, and in the case of a corporation, of every class
1148 of security issued by the corporation; (iv) maintains all
1149 operating accounts required by the commission in a bank
1150 chartered in the commonwealth or in a bank with a full service
1151 branch present in the commonwealth; (v) includes among the
1152 purposes stated in its official filings with the state secretary
1153 the conduct of gaming; (vi) in the case of a non-publicly traded

1154 corporation, files with the commission such adopted corporate
1155 charter provisions as may be necessary to establish the right of
1156 prior approval by the commission with regard to transfers of
1157 securities, shares, and other interests in the applicant
1158 corporation; (vii) in the case of a publicly traded corporation,
1159 provides in its corporate charter that any securities of such
1160 corporation are held subject to the condition that if a holder
1161 thereof is found to be disqualified by the authority pursuant to
1162 the provisions of this chapter, such holder shall dispose of his
1163 interest in the corporation; provided, however, that nothing
1164 herein shall be deemed to require that any security of such
1165 corporation bear any legend to this effect; and (viii) in the
1166 case of a non-publicly traded corporation, establishes that
1167 appropriate charter provisions create the absolute right of such
1168 non-publicly traded corporations and companies to repurchase at
1169 the market price or the purchase price, whichever is the lesser,
1170 any security, share or other interest in the corporation in the
1171 event that the commission disapproves a transfer in accordance
1172 with the provisions of this chapter.

1173 (b) Any publicly traded holding, intermediary, or subsidiary
1174 of the corporation, whether the corporation is publicly traded
1175 or not, shall contain in its corporate charter the same

1176 provisions required under subsection (a) for a publicly traded
1177 corporation to be eligible to apply for a gaming license.

1178 (c) Any non-publicly traded holding, intermediary or
1179 subsidiary of the corporation, whether the corporation is
1180 publicly traded or not, shall establish that its charter
1181 provisions are the same as those required under subsection (a)
1182 for a non-publicly traded corporation to be eligible to apply
1183 for a gaming license.

1184 **Section 16.** (a) No person shall be eligible to receive a
1185 category 1 license without a certified and binding vote in favor
1186 of such license on a ballot question at an election in the host
1187 community where the category 1 facility will be located;
1188 provided further that the host community shall be reimbursed for
1189 its expenses related to the election by the applicant for a
1190 category 1 license.

1191 An applicant for a category 1 license shall have certification
1192 of ballot approval by the host community within 3 months of
1193 submitting an application for a category 1 license to the
1194 commission; provided, however, that the applicant shall include
1195 with the application a certified letter from the clerk of the
1196 host community of a date certain for the election within the 3
1197 month period.

1198 (b) No person shall be eligible to apply for a category 2 or
1199 category 3 license without a binding vote in the host community
1200 where the gaming establishment will be located by a majority of
1201 members of the town council, or in a city having a Plan D or
1202 Plan E charter, the city manager and the city council and in any
1203 other city the mayor and city council and in towns a majority
1204 vote of those present and voting at a town meeting and approval
1205 by the board of selectmen; provided further that an applicant
1206 for a category 2 or category 3 license who has received such a
1207 vote shall be required to obtain a vote on a ballot question
1208 pursuant to subsection (a) if said applicant is applying for a
1209 category 1 license.

1210 (c) The governing body of a host community which has adopted
1211 the provisions of chapter 43D shall file a proposal with the
1212 interagency permitting board to designate the site proposed for
1213 a category 1 facility as priority development site. In a
1214 community which has not adopted the provisions of chapter 43D,
1215 the planning board shall designate a local permitting ombudsman,
1216 who shall be a planning board member or a member of the planning
1217 board's professional staff, to help coordinate and expedite
1218 local permitting of the category 1 facility. In a community
1219 where no professional planning staff exists, the local
1220 permitting ombudsman shall be a panel consisting of 1

1221 representative from the planning board, 1 member from the zoning
1222 board of appeals, 1 member from the conservation commission, 1
1223 member from the police department, 1 member from the fire
1224 department and 1 member from the department of public works to
1225 coordinate and expedite local permitting of the category 1
1226 facility. In either case, the ombudsman shall not assume the
1227 permitting authority of the individual boards, commissions, or
1228 departments referred to herein.

1229 **Section 17.** (a) The commission shall prescribe the form of the
1230 application for gaming licenses which shall require, but not be
1231 limited to, the following:

1232 (i) the name of the applicant;

1233 (ii) the mailing address and, if a corporation, the name of
1234 the state under the laws of which it is incorporated, the
1235 location of its principal place of business and the names and
1236 addresses of its directors and stockholders;

1237 (iii) the identity of every person having a direct or
1238 indirect interest in the business, and the nature of such
1239 interest; provided further, that if the disclosed entity is a
1240 trust, the application shall disclose the names and addresses of
1241 all beneficiaries; provided further, that if a partnership, the
1242 names and addresses of all partners, both general and limited;

1243 and provided further, that if a limited liability company, the
1244 names and addresses of all members;

1245 (iv) an independent audit report of all financial
1246 activities and interests including, but not limited to, the
1247 disclosure of all contributions, donations, loans or any other
1248 financial transactions to or from any gaming entity or operator
1249 in the past 5 years;

1250 (v) clear and convincing evidence of financial stability
1251 including, but not limited to, bank references, business and
1252 personal income and disbursement schedules, tax returns and
1253 other reports filed by government agencies, and business and
1254 personal accounting check records and ledgers;

1255 (vi) information and documentation to demonstrate that the
1256 applicant has sufficient business ability and experience as to
1257 establish the likelihood of creation and maintenance of a
1258 successful gaming establishment;

1259 (vii) a full description the proposed internal controls and
1260 security systems for the proposed gaming establishment and any
1261 related facilities;

1262 (viii) whether the applicant is partnering with a federally
1263 recognized native American tribe located in the commonwealth for
1264 the purposes of the proposed gaming establishment;

1265 (ix) a statement that the applicant will comply, in case
1266 such a gaming license is issued, with all applicable laws and
1267 with all applicable rules and regulations prescribed by the
1268 commission or any other relevant entity;

1269 (x) proof of approval by the host municipality pursuant to
1270 section 16;

1271 (xi) acknowledgement that the commission has authorization
1272 to conduct warrantless searches of the gaming establishment;

1273 (xii) an agreement that the applicant shall mitigate the
1274 potential negative public health consequences associated with
1275 gambling and the operation of a gaming establishment including:
1276 (1) maintaining a smoke-free environment within the gaming
1277 facility pursuant to the provisions of section 22 of chapter
1278 270; (2) providing complimentary on-site space for an
1279 independent substance abuse and mental health counseling service
1280 to be selected by the commission; (3) prominently displaying
1281 information on the signs of problem gambling and how to access
1282 assistance; (4) describing a process for individuals to exclude
1283 their names and contact information from the licensee's database
1284 or any other list held by the licensee for use in marketing or
1285 promotional communications; and (5) instituting other public
1286 health strategies as determined by the commission;

1287 (xiii) the designs for the proposed gaming establishment,
1288 including the names and addresses of the architects, engineers
1289 and designers, and a timeline of construction that includes
1290 detailed stages of construction for the gaming facility,
1291 nongaming structures, and racecourse, where applicable;

1292 (xiv) a description of the ancillary entertainment services
1293 and amenities to be provided at the proposed gaming
1294 establishment;

1295 (xv) the number of employees to be employed at the proposed
1296 gaming establishment, including detailed information on the pay
1297 rate and benefits for employees;

1298 (xvi) completed studies and reports as required by the
1299 commission, including reports on the economic benefits of the
1300 proposed gaming establishment, the environmental, traffic and
1301 local infrastructure impacts, the impact of the proposed gaming
1302 establishment to the local and regional economy, the cost to the
1303 municipality and the commonwealth for the proposed gaming
1304 establishment to be at its proposed location, and the total
1305 amount of municipal and state tax revenue to be generated by the
1306 applicant; including ancillary revenues generated by employees
1307 and vendors;

1308 (b) In addition to the information included in subsection
1309 (a), an applicant for a category 1 license shall include the
1310 following information:

1311 (i) the location of the proposed category 1 establishment,
1312 which shall include the address, maps, book and page numbers
1313 from the appropriate registry of deeds, assessed value of the
1314 land at the time of application, and ownership interests over
1315 the past 20 years including all interests, options, agreements
1316 in property, and demographic, geographic, and environmental
1317 information, and any other information requested by the
1318 authority;

1319 (ii) the types of games and gaming to be conducted at the
1320 resort casino, number of tables and slot machines that are
1321 proposed to be employed at the casino, and the specific location
1322 of gaming at the casino site;

1323 (iii) the number of hotels and rooms and other amenities
1324 located at the proposed category 1 establishment as well as how
1325 they measure in quality to other area hotels and amenities;

1326 (iv) whether the applicant's category 1 establishment is
1327 part of a regional or local economic plan; and

1328 (v) whether the applicant will be using publicly owned land
1329 for the category 1 establishment.

1330 (c) No application for a gaming license shall be considered by
1331 the commission unless accompanied by a nonrefundable application
1332 fee of \$250,000, to defray the costs associated with the
1333 processing of the application and investigation of the
1334 applicant. If the costs of the investigation exceed the initial
1335 application fee, the applicant shall pay the additional amount
1336 to the commission within 30 days or the application shall be
1337 rejected.

1338 (d) Applications for licenses shall be public records for the
1339 purposes of section 10 of chapter 66; provided, however, that
1340 information required by the commission that pertains to: (i)
1341 confidential finances, earnings, revenue or trade secrets of any
1342 applicant; (ii) an applicant's criminal record or background
1343 information; (iii) the suitability of an applicant for a
1344 particular endeavor and (iv) information personal in nature
1345 submitted by an applicant pursuant to this section shall be
1346 deemed confidential, are not public records and shall not be
1347 disclosed. Personal information shall include any information
1348 concerning: (i) a minor child of an applicant; (ii) the social
1349 security number of an applicant or the spouse of an applicant;
1350 (iii) the home telephone number or address of an applicant or
1351 the spouse or children of an applicant; (iv) the birth
1352 certificate of the applicant or information relating to the date

1353 or place of birth of an applicant's spouse; (v) the driver's
1354 license number of an applicant or an applicant's spouse; (vi)
1355 the name or address of a previous spouse of the applicant; (vii)
1356 the personal financial information and records of an applicant
1357 or the spouse or minor child of an applicant, including tax
1358 returns and any and all records of criminal proceedings; (viii)
1359 any information concerning a victim of domestic violence, sexual
1360 assault or stalking; (ix) the personal electronic mail address
1361 of an applicant or spouse or family member of the applicant; (x)
1362 and any other information deemed necessary by the commission to
1363 protect the privacy of an applicant or the applicant's family.
1364 Any information concerning an applicant collected by the
1365 commission may be released by the commission to an authorized
1366 agent of the state or federal government.

1367 **Section 18.** (a) Upon receipt of an application for a gaming
1368 license, the commission shall commence an investigation into the
1369 suitability of an applicant. In evaluating the suitability of
1370 an applicant, the commission shall consider the overall
1371 reputation of the applicant including, without limitation:

1372 (i) the integrity, honesty, good character and reputation of
1373 the applicant;

1374 (ii) the financial stability, integrity, and background of the
1375 applicant;

1376 (iii) the business practices and the business ability of an
1377 applicant to establish and maintain a successful gaming
1378 establishment;

1379 (iv) whether the applicant has a history of compliance with
1380 gaming licensing requirements in other jurisdictions;

1381 (v) whether the applicant, at the time of application, is a
1382 defendant in litigation involving its business practices;

1383 (vi) the suitability of all parties in interest to the gaming
1384 license, including affiliates, close associates and the
1385 financial resources of the applicant; and

1386 (vii) whether the applicant is disqualified from receiving a
1387 license pursuant to section 13; provided, however, that in
1388 considering the rehabilitation of an applicant for a gaming
1389 license, the commission shall not automatically disqualify any
1390 applicant if the applicant affirmatively demonstrates, by clear
1391 and convincing evidence, that the applicant has financial
1392 responsibility, character, reputation, integrity and general
1393 fitness as such to warrant belief by the commission that the
1394 applicant will act honestly, fairly, soundly and efficiently as
1395 a gaming licensee.

1396 (b) If the commission determines during its investigation that
1397 an applicant has failed to: (i) establish his integrity or the

1398 integrity of any affiliate, close associate, financial source or
1399 any person required to be qualified by the commission; (ii)
1400 demonstrate responsible business practices in any jurisdiction;
1401 or (iii) overcome any other reason, as determined by the
1402 commission, as to why it would be injurious to the interests of
1403 the commonwealth in awarding said applicant a gaming license,
1404 the commission shall cease any further review and deny the
1405 application pursuant to the procedures in subsection (f).

1406 (c) If the commission has determined an applicant is suitable
1407 to receive a gaming license, the commission shall commence a
1408 review of the applicant's entire application. After a review of
1409 the entire application and any independent evaluations, the
1410 commission shall conduct a public hearing on the application
1411 pursuant to section 11 ½ of chapter 30A. An applicant for a
1412 gaming license shall be given at least 30 days notice of the
1413 public hearing.

1414 (d) The public hearing shall provide the commission the
1415 opportunity to address questions and concerns relative to the
1416 proposal of a gaming applicant to build a gaming establishment
1417 including the breadth and quality of the gaming facility and
1418 amenities, the integration of the facility into the surrounding
1419 community and the extent of required mitigation plans. During
1420 the hearing, the commission may take the opportunity to read

1421 into the record any letters of support, opposition or concern
1422 from members of the communities in the vicinity of the proposed
1423 gaming establishment.

1424 (e) Within 90 days of the conclusion of the public hearing,
1425 the commission shall take action on the application. The
1426 commission, by majority vote of all commissioners, may: (i) deny
1427 the application; (ii) extend the period for issuing a decision
1428 in order to obtain any additional information necessary for a
1429 complete evaluation of the application; provided, however, that
1430 the extension shall be 30 days or less; or (iii) grant the
1431 application for a gaming license.

1432 (f) Upon denial of an application, the commission shall
1433 prepare and file its order and, if requested by the applicant,
1434 shall further prepare and file a statement of the reasons for
1435 the denial, including specific findings of fact.

1436 (g) The issuance of a license is discretionary. Applicants
1437 have no legal right or privilege to a gaming license and are not
1438 entitled to any further review if denied.

1439 Section 19. In determining whether an applicant should receive a
1440 gaming license, the commission shall [A] evaluate and issue a
1441 statement of findings of how each applicant proposes to advance
1442 the following objectives: (1) protecting the lottery from any

1443 adverse impacts due to expanded gaming, including, but not
1444 limited to, developing cross-marketing strategies with the
1445 lottery and increasing ticket sales to out-of-state residents;
1446 (2) promoting local businesses in host and surrounding
1447 communities, including developing cross-marketing strategies
1448 with local restaurants, hotels, retail outlets and performing
1449 arts organizations; (3) implementing a workforce development
1450 plan to utilize the existing labor force in the commonwealth,
1451 including the estimated number of construction jobs a proposed
1452 gaming establishment will generate, the development of workforce
1453 training programs that serve the unemployed, and methods for
1454 accessing employment at the gaming establishment; (4) building a
1455 gaming establishment of high caliber with a variety of quality
1456 amenities to be included as part of the gaming establishment and
1457 operated in partnership with any local hotels, dining, retail
1458 and entertainment facilities so that patrons experience the
1459 diversified regional tourism industry; (5) taking additional
1460 measures to address problem gambling, including, but not limited
1461 to, training of gaming employee to identify patrons exhibiting
1462 problems with gambling and prevention programs targeted toward
1463 vulnerable populations; (6) providing a market analysis
1464 detailing the benefits of the site location of the gaming
1465 establishment and the estimated recapture rate of gaming-
1466 related spending by residents travelling to out-of-state gaming

1467 establishments; (7) utilizing sustainable development
1468 principles, including, but not limited to: (i) being certified
1469 or capable of being certified as gold or higher pursuant to the
1470 U.S. Green Building Council Neighborhood Development Rating
1471 System, the green building rating system established by the
1472 Leadership in Environmental and Energy Design, gold or higher
1473 pursuant to the National Green Building Standard, a Three Globe
1474 rating or higher pursuant to the Green Globes rating system, or
1475 an alternative rating system approved by the executive office of
1476 energy and environmental affairs; (ii) meeting United States
1477 Environmental Protection Agency efficiency standards for the
1478 electrical equipment and appliances used by the resort casino;
1479 and (iii) procuring 10 per cent of its annual electricity
1480 consumption from renewable sources identified by the division of
1481 energy resources pursuant to section 11F of chapter 25A; (8)
1482 establishing, funding, and maintaining human resource hiring and
1483 training practices that promote the development of a skilled and
1484 diverse workforce and access to promotion opportunities through
1485 a workforce training program that: (i) establishes transparent
1486 career paths with measurable criteria within the gaming
1487 establishment that lead to increased responsibility and higher
1488 pay grades that are designed to allow employees to pursue career
1489 advancement and promotion; (ii) provides employee access to
1490 additional resources, such as tuition reimbursement or stipend

1491 policies, to enable employees to acquire the education or job
1492 training needed to advance career paths based on increased
1493 responsibility and pay grades; and (iii) establishes an on-site
1494 child day care program; and (9) contracting with local business
1495 owners for the provision of services and goods to the gaming
1496 establishment, including developing plans designed to assist
1497 businesses in the commonwealth in identifying the needs for
1498 goods and services to the establishment; (10) purchasing,
1499 whenever possible, domestically manufactured slot machines for
1500 installation in the gaming establishment.

1501 **Section 20.** (a) The commission may issue 2 category 1 licenses;
1502 provided, however, that the category 1 licenses shall only be
1503 issued to applicants who are qualified under the criteria set
1504 forth in this chapter as determined by the commission. In
1505 evaluating the location of the category 1 facilities, the
1506 commission shall take into consideration their proximity to each
1507 other and how that may impact the policy goals established
1508 pursuant to section 1.

1509 (b) No other gaming license, or authorization to increase the
1510 gaming positions in a category 2 or category 3 license, shall be
1511 issued by the commonwealth for a period of 15 years; provided,
1512 however, that such exclusivity shall not include the interests

1513 of the commonwealth in compacting with any federally recognized
1514 Native American tribe for gaming rights in the commonwealth.

1515 (c) No category 1 licensee shall transfer a license or any
1516 direct or indirect interest in the license or licensed premises
1517 without the majority approval of the commission. Any person
1518 seeking to acquire a license through a transfer shall satisfy
1519 the requirement for licensure pursuant to this chapter. The
1520 commission shall reject any license transfer or transfer of
1521 interest to an unsuitable person and may reject a proposed
1522 transfer that, in the opinion of the commission, would be
1523 disadvantageous to the interests of the commonwealth in the
1524 gaming establishment.

1525 (d) The commission may issue 2 category 2 licenses; provided,
1526 however, that the commission shall issue 1 category 2 license to
1527 a qualified harness horse racing facility and 1 category 2
1528 license to a qualified thoroughbred horse racing facility. A
1529 category 2 license issued shall be contingent upon the
1530 licensee's completion of the annual live racing season pursuant
1531 to chapter 128A. An applicant who is eligible for a category 2
1532 license pursuant to this section may apply for a category 1
1533 license; provided, however, that upon receipt of a category 1
1534 license said applicant shall continue to conduct live racing and
1535 abide by all the live racing terms pursuant to section 23 and

1536 shall continue to pay the applicable live racing tax required of
1537 category 2 licensees.

1538 (e) The commission may issue 2 category 3 licenses; provided,
1539 however, that the commission shall issue each category 3 license
1540 to a qualified greyhound racing facility. Any category 3 license
1541 issued shall be contingent upon the licensee's simulcasting of
1542 live thoroughbred, harness or greyhound races pursuant to
1543 chapter 128A. An applicant who is eligible for a category 3
1544 license pursuant to this section may apply for a category 1
1545 license.

1546 A category 3 licensee shall maintain a simulcasting license
1547 pursuant to chapter 128C. Upon failure to conduct simulcast
1548 wagering the commission shall suspend the category 3 license.

1549 (f) A category 2 license and a category 3 license issued
1550 pursuant to this chapter shall not be transferrable or
1551 assignable without the approval of the commission; provided,
1552 however, that for 5 years after the initial issuance of a
1553 category 2 or category 3 license the commission shall only
1554 approve such a transfer if: (i) the licensee experiences a
1555 change in ownership; or (ii) the licensee fails to maintain
1556 suitability or other circumstances which the commission may
1557 consider, which, in the opinion of a majority of members of the
1558 commission, impact a licensee's ability to successfully operate

1559 a gaming establishment.(g) Notwithstanding the foregoing, and
1560 upon approval by the commission, a category 3 licensee may merge
1561 its license with a category 2 licensee and locate the total
1562 number of slot machines allotted to each licensee at a
1563 thoroughbred or harness racing track. A category 2 licensee may
1564 not merge with more than 1 category 3 licensee.

1565 An applicant for a category 2 license shall apply for a merged
1566 license with an eligible applicant for a category 3 license in
1567 their initial application to the commission. The commission
1568 shall approve any merger agreement and shall require parties to
1569 the merger to be qualified for licensure pursuant to the
1570 criteria set forth in sections 13 and 19.

1571 (h) A category 1 license issued pursuant to this chapter shall
1572 be for a period of 15 years from the date of first issuance;
1573 provided, however, that 5 years after issuance, and every 5
1574 years thereafter, the commission shall perform a thorough review
1575 of the business strategy of the resort casino which shall
1576 include plans for expansion and marketing submitted by the
1577 licensee. The commission shall establish procedures for renewal
1578 and set the renewal fee based on the cost of fees associated
1579 with the evaluation of a licensee requesting a renewed category
1580 1 license.

1581 A category 2 and category 3 license issued pursuant to this
1582 chapter shall be for a period of 5 years. The commission shall
1583 establish procedures for renewal and set the renewal fee based
1584 on the cost of fees associated with the evaluation of a
1585 licensee; provided, however, that the cost of renewal shall not
1586 be less than \$100,000. A category 1, category 2, or category 3
1587 licensee shall issue an annual report to the commission
1588 explicitly stating its progress on meeting each of the stated
1589 goals and stipulations put forth in the licensee's original
1590 application. Inability to meet stated goals within a reasonable
1591 time frame, as determined by the commission, shall result in
1592 additional fees as deemed fair and reasonable by the commission.
1593 Failure to meet stated goals may also result in revocation of
1594 the license at any time by the commission.

1595 Nothing in this section shall preclude the commission at any
1596 time from reviewing the business operations of any gaming
1597 licensee to ensure that the conditions of licensure are being
1598 met, including, but not limited to, the suitability of the
1599 licensee and any affiliates and the fiscal stability of the
1600 gaming establishment.

1601 (i) The commission shall have the power to condition, suspend
1602 or revoke any gaming license upon a finding that a licensee: (i)
1603 has committed a criminal or civil offense under this chapter or

1604 any other laws of the commonwealth; (ii) is not in compliance
1605 with gaming regulations or is under criminal investigation in
1606 another jurisdiction; (iii) has breached a condition of
1607 licensure; (iv) has affiliates, close associates or employees
1608 that are not qualified or licensed pursuant to this chapter with
1609 whom the gaming licensee continues to conduct business or
1610 employ; (v) is no longer capable of maintaining operations at a
1611 gaming establishment; or (vi) whose business practice, upon a
1612 determination by the commission, is injurious to the policy
1613 objectives of this chapter.

1614 (j) Whenever any person contracts to transfer any property
1615 relating to an ongoing gaming operation, including a security
1616 holding in a gaming licensee or holding or intermediary company,
1617 under circumstances which require that the transferee obtain
1618 licensure under this chapter, the contract shall not specify a
1619 closing or settlement date which is earlier than the 121st day
1620 after the submission of a completed application for licensure or
1621 qualification, which application shall include a fully executed
1622 and approved trust agreement.

1623 The commission shall hold a hearing and render a decision on
1624 the interim authorization of the applicant. If the commission
1625 grants interim authorization, then the closing or settlement may
1626 occur without interruption of casino operations. If the

1627 commission denies interim authorization, there shall be no
1628 closing or settlement until the commission makes a determination
1629 on the qualification of the applicant, and if the commission
1630 then denies qualification the contract shall thereby be
1631 terminated for all purposes without liability on the part of the
1632 transferor.

1633 The commission shall promulgate further regulations for
1634 interim authorization of a gaming establishment.

1635 (k) No person or affiliate shall be awarded, purchase or
1636 otherwise hold or have a financial interest in more than 1
1637 license issued by the commission.

1638 (l) The commission shall take into consideration the physical
1639 distance in selecting the two resort casinos as they relate to
1640 each other and how they maximize benefits to the commonwealth.

1641 **Section 21.** (a) Applicants for a category 1 license shall invest
1642 not less than \$500,000,000 into the resort casino which shall
1643 include the gaming facility, at least 1 hotel, and other
1644 amenities as proposed in the application for a category 1
1645 license. Upon award of a category 1 license by the commission,
1646 the applicant shall be required to deposit 10 per cent of the
1647 total investment proposed in the application into an interest-
1648 bearing account. Monies received from the applicant shall be

1649 held in escrow until the final stage of construction, as
1650 approved by the commission, at which time the deposit shall be
1651 returned to the applicant to be applied for such final stage.
1652 Should the applicant be unable to complete the resort casino,
1653 the deposit shall be forfeited to the commonwealth. In place of
1654 a cash deposit, the commission may allow for an applicant to
1655 secure a deposit bond insuring that 10 per cent of the proposed
1656 capital investment shall be forfeited to the commonwealth.

1657 (b) Applicants for a category 1 license shall submit their
1658 proposed capital investment with their application to the
1659 commission which shall include stages of construction of the
1660 resort casino and the deadline by which construction and any
1661 infrastructure improvements will be completed. In awarding a
1662 category 1 license, the commission shall determine at what stage
1663 of construction a licensee shall be approved to open for
1664 business; provided, however, that a licensee shall not be
1665 permitted to open for business until the commission has
1666 determined that at least the gaming facility and hotel have been
1667 built and are of a superior quality as set forth in the
1668 conditions of licensure; provided, further, that total
1669 infrastructure improvements onsite and around the vicinity of
1670 the resort casino, including projects to account for traffic

mitigation, shall be completed before the resort casino shall be approved for opening by the commission.

(c) A category 1 licensee shall pay to the commission a fee of \$100,000,000 within 30 days of the final award of the license which sets forth the conditions to be satisfied by the licensee before the gaming facility may be opened to the public. The commission shall set any renewal fee for such license based on the cost of fees associated with the evaluation of a category 1 licensee pursuant to section 20 of this chapter, and such renewal fee will be exclusive of any subsequent license fees under this section.(d) The commission shall determine the sources and total amount of an applicant's proposed capitalization to develop, construct, maintainand operate a proposed gaming establishment under this chapter. Upon award of a gaming license, the commission shall continue to assess the capitalization of a licensee for the duration of construction of the proposed gaming establishment and the term of the license.

Section 22. (a) Applicants for a category 2 or category 3 license shall invest not less than \$75,000,000 into the gaming facility and racecourse, if applicable.

The investment required under this section shall be made within 2 years of receiving a gaming license; provided, however, that any infrastructure improvements necessary to increase

1694 visitor capacity and account for traffic mitigation, as
1695 determined by the commission, shall be completed before the
1696 category 2 or category 3 licensee shall be authorized to operate
1697 any slot machine at the gaming facility.

1698 (b) The required licensing fee for a category 2 or category 3
1699 license shall be not less than \$15,000,000. The commission shall
1700 raise the license fee if an applicant for a category 2 or
1701 category 3 license cannot demonstrate to the satisfaction of the
1702 commission that the applicant will advance any of the objectives
1703 set forth in section 19.

1704 (c) If the commission approves the merger of a category 2 and
1705 category 3 licensee pursuant to section 20 and grants a merged
1706 license, the applicants shall pay \$30,000,000 and shall agree to
1707 invest \$150,000,000 into the gaming facility and racecourse.

1708 (d) The commission shall determine the sources and total
1709 amount of an applicant's proposed capitalization to develop,
1710 construct, maintain and operate a proposed gaming establishment
1711 under this chapter. Upon award of a gaming license, the
1712 commission shall continue to assess the capitalization of a
1713 licensee for the duration of construction of the proposed gaming
1714 establishment and the term of the license.

Section 23. (a) An applicant for a category 2 licensee shall maintain any racing facility on the premises; provided, however, that said licensee shall increase the number of live racing days to a minimum of 125 days according to the following schedule:

(i) in the first calendar year of operation a licensee shall hold 105 racing days;

(ii) in the second calendar year of operation a licensee shall hold 115 racing days; and

(iii) in the third calendar year of operation a licensee shall hold 125 racing days.

(b) A category 2 licensee may increase the number of live racing days if said licensee is holding a minimum of 125 racing days within 3 years of receiving a category 2 license. If a category 2 licensee does not conduct live racing for the minimum number of days set forth in subsection (a), the commission shall suspend the category 2 license.

(c) After 3 years of operation, and in consultation with the parties to the purse agreement, the commission may adjust the amount of required racing days at a category 2 facility based on fields, demand and racing performance.

(d) A category 2 licensee shall have an annual purse agreement in effect by December thirty-first of each year for the following

1737 year's racing; provided, however, that if the parties to a purse
1738 agreement at a category 2 facility cannot in good faith
1739 negotiate an agreement by December thirty-first, the purse
1740 agreement shall be arbitrated by the commission.

1741 **Section 24.** (a) No person shall be employed by a gaming licensee
1742 unless such person has been licensed by or registered with the
1743 commission.

1744 (b) Any person seeking a valid key gaming employee license or
1745 a gaming employee license shall file an application with the
1746 commission. Such application shall be on a form prescribed by
1747 the commission and shall include, but shall not be limited to,
1748 the following: (1) the name of the applicant; (2) the address of
1749 the applicant; (3) a detailed employment history of the
1750 applicant; (4) fingerprints; (5) a criminal and arrest record;
1751 and (6) any civil judgments obtained against the person
1752 pertaining to antitrust or security regulation. Each applicant
1753 shall be a resident of the commonwealth prior to the issuance of
1754 a gaming employee license, provided, however, that the
1755 commission may waive this requirement upon certification from
1756 the gaming licensee that an applicant's particular position will
1757 require the applicant to be reside outside of the commonwealth.
1758 The commission may require such other information as it deems
1759 appropriate including, without limitation, information related

1760 to the financial integrity of the applicant and may require the
1761 applicant to submit other documentation it deems appropriate
1762 including, without limitation, bank accounts and records, bank
1763 references, business and personal income and disbursement
1764 schedules, tax returns and other reports filed by government
1765 agencies, and business and personal accounting check records and
1766 ledgers.

1767 (c) All other employees in a gaming establishment who are not
1768 considered to be gaming employees, key gaming employees, or who
1769 have restricted access to an area of the gaming establishment or
1770 knowledge of security procedures, shall be required to register
1771 with the commission as a gaming service employee and shall
1772 produce such information as the commission may require to become
1773 registered under this chapter.

1774 (d) Upon receipt of an application for a key gaming employee
1775 license and a gaming employee license the commission shall
1776 conduct an investigation of each applicant which shall include
1777 obtaining criminal offender record information from the criminal
1778 history systems board as well as exchanging fingerprint data and
1779 criminal history with the state police and the federal bureau of
1780 investigation.

1781 (e) Upon petition by a gaming licensee, the commission may
1782 issue a temporary license to an applicant for a gaming key

1783 employee license or a gaming employee license provided that: (i)
1784 the applicant for a gaming key employee license or gaming
1785 employee license has filed a complete application with the
1786 commission; and (ii) the gaming licensee certifies, and the
1787 commission finds, that the issuance of a temporary license is
1788 necessary for the operation of the gaming facility and is not
1789 designed to circumvent the normal licensing procedures.

1790 Unless otherwise stated by the commission, a temporary license
1791 issued pursuant to this section shall expire 6 months from the
1792 date of its issuance and may be renewed, at the discretion of
1793 the commission, for an additional 6 month period.

1794 (f) The commission may deny any application for a key gaming
1795 employee or gaming employee license or the registration of any
1796 other employee of a gaming establishment if the commission finds
1797 that any applicant or registrant is disqualified pursuant to
1798 section 14 or may be unsuitable for licensure under any of the
1799 criteria set forth in section 19; provided, however, that the
1800 commission, in its discretion, may issue a license to an
1801 applicant for a gaming employee license or register a gaming
1802 service employee who has a prior conviction if said applicant or
1803 registrant can affirmatively demonstrate his rehabilitation. In
1804 considering the rehabilitation of an applicant for a license
1805 under this section, the commission shall consider the following:

1806 (i) the nature and duties of the position of the applicant; (ii)
1807 the nature and seriousness of the offense or conduct; (iii) the
1808 circumstances under which the offense or conduct occurred; (iv)
1809 the date of the offense or conduct; (v) the age of the applicant
1810 when the offense or conduct was committed; (vi) whether the
1811 offense or conduct was an isolated or repeated incident; (vii)
1812 any social conditions which may have contributed to the offense
1813 or conduct; and (viii) any evidence of rehabilitation, including
1814 recommendations and references of persons supervising the
1815 applicant since the offense or conduct was committed.

1816 Any orders denying an application under this section shall be
1817 accompanied with an explanation of why an applicant did not meet
1818 the qualifications for licensure under this chapter.

1819 (g) The commission shall be authorized to condition, suspend
1820 or revoke any license or registration under this section if the
1821 commission finds that a licensee or registrant has: (i) been
1822 arrested or convicted of a crime while employed by a gaming
1823 establishment and failed to report charges or the conviction to
1824 the commission; (ii) failed to comply with the provisions of
1825 section 12; or (iii) failed to comply with any of the provisions
1826 of this chapter pertaining to licensees.

1827 (h) A license or registration issued pursuant to this section
1828 shall be issued for a term of 3 years. It shall be the

1829 responsibility of the employee to ensure that their license is
1830 current.

1831 (i) The commission shall establish fees for a key gaming
1832 employee and a gaming employee license which shall include costs
1833 incurred for conducting a background investigation into an
1834 applicant said license.

1835 **Section 25.** (a) No person or business shall conduct any business
1836 with a gaming licensee unless such person has been licensed by
1837 or registered with the commission.

1838 (b) Any person seeking a gaming vendor license shall file an
1839 application with the commission. Such application shall be on a
1840 form prescribed by the commission and shall include, but shall
1841 not be limited to, the following: (i) the name of the applicant;
1842 (ii) the post office address and if a corporation, the name of
1843 the state under the laws of which it is incorporated, the
1844 location of its principal place of business and the names and
1845 addresses of its directors and stockholders; (iii) a criminal
1846 and arrest record; (iv) any civil judgments obtained against the
1847 person pertaining to antitrust or security regulation; (v) the
1848 identity of every person having a direct or indirect interest in
1849 the business, and the nature of such interest; provided further,
1850 that if the disclosed entity is a trust, the application shall
1851 disclose the names and addresses of all beneficiaries; provided

1852 further, that if the disclosed entity is a partnership, the
1853 names and addresses of all partners, both general and limited;
1854 and provided further, that if the disclosed entity is a limited
1855 liability company, the names and addresses of all members; (vi)
1856 an independent audit report of all financial activities and
1857 interests including, but not limited to, the disclosure of all
1858 contributions, donations, loans or any other financial
1859 transactions to or from any gaming entity or operator in the
1860 past 5 years; and (vii) clear and convincing evidence of
1861 financial stability including, but not limited to, bank
1862 references, business and personal income and disbursement
1863 schedules, tax returns and other reports filed by government
1864 agencies, and business and personal accounting check records and
1865 ledgers. The commission may require such other information as it
1866 deems appropriate including, without limitation, information
1867 related to the financial integrity of the applicant and may
1868 require the applicant to submit other documentation it deems
1869 appropriate including, without limitation, bank accounts and
1870 records, bank references, business and personal income and
1871 disbursement schedules, tax returns and other reports filed by
1872 government agencies, and business and personal accounting check
1873 records and ledgers.

1874 (c) No person shall manufacture, sell, distribute, test or
1875 repair slot machines, other than antique slot machines as
1876 defined in section 5A of chapter 271, without a valid gaming
1877 vendor license issued by the commission

1878 (d) All other suppliers or vendors who are not considered to
1879 be gaming vendors including, but not limited to, construction
1880 companies, vending machine providers, linen suppliers, garbage
1881 handlers, maintenance companies, limousine services, food
1882 purveyors or suppliers of alcoholic beverages, shall be
1883 considered non-gaming vendors and shall be required to register
1884 with the commission and shall produce such information as the
1885 commission may require; provided, however, that the commission
1886 may require any vendor regularly conducting over \$250,000 of
1887 business with a gaming licensee within a 12 month period, or
1888 \$100,000 of business within a 3 year period, to be licensed as a
1889 gaming vendor.

1890 (e) Any person owning more than 5 per cent of the common stock
1891 of a company required to be licensed as a gaming vendor, or a
1892 holding, intermediary or subsidiary of such company, shall be
1893 required to file for licensure. The commission may waive the
1894 licensing requirements for institutional investors holding up to
1895 15 per cent of the stock of the company, or holding,
1896 intermediary or subsidiary company of the such company, upon a

1897 showing by the person seeking the waiver that the applicant
1898 purchased the securities for investment purposes only and does
1899 not have any intention to influence or affect the affairs or
1900 operations of the company or a holding, intermediary or
1901 subsidiary of the such company. Any institutional investor
1902 granted a waiver which subsequently determines to influence or
1903 affect the affairs or operations of the gaming vendor, or a
1904 holding, intermediary or subsidiary of the gaming vendor, shall
1905 provide not less than 30 days notice to the commission of such
1906 intent and shall file an application and be subject to the
1907 licensing requirements of this chapter before taking any action
1908 that may influence or affect the affairs of the applicant
1909 company or a holding, intermediary or subsidiary of the
1910 applicant company. Any company holding over 15 per cent of a
1911 gaming vendor, or a holding, intermediary or subsidiary of a
1912 gaming vendor, shall be deemed to be a qualifier and shall file
1913 an application form with the commission and be subject to the
1914 licensing requirements of this chapter.

1915 (f) If an applicant for a gaming vendor license or vendor
1916 or supplier registration is licensed or registered in another
1917 jurisdiction within the United States and is in good standing in
1918 all the jurisdictions in which it holds a license or
1919 registration, the commission may enter into a reciprocal

1920 agreement with the applicant and to allow for an abbreviated
1921 licensing or registration process and issue a gaming vendor
1922 license or registration pursuant to this section, provided,
1923 however, that the commission shall reserve its rights to
1924 investigate the qualifications of an applicant at any time and
1925 may require the applicant to submit to a full application for a
1926 gaming vendor license or provide further information for
1927 registration.

1928 (g) The commission shall deny any application for a gaming
1929 vendor license or the registration of any other vendor or
1930 supplier if the commission finds that any applicant or
1931 registrant is disqualified pursuant to section 14 or may be
1932 unsuitable for licensure under any of the criteria set forth in
1933 section 19.

1934 (h) The commission shall be authorized to condition, suspend
1935 or revoke any license or registration under this section if the
1936 commission finds that a licensee or registrant has: (i) been
1937 arrested or convicted of a crime; (ii) failed to comply with the
1938 provisions of section 12; or (iii) failed to comply with any of
1939 the provisions of this chapter pertaining to licensees.

1940 (i) The commission shall establish a master vendor list to
1941 monitor all vendor contracts with a gaming establishment. Any
1942 vendor doing business with a gaming establishment who has failed

1943 to submit an application for licensure or registration shall be
1944 prohibited from engaging in any future business with any gaming
1945 establishment; provided further that the commission shall be
1946 authorized to terminate any contracts that have been entered
1947 into with an unlicensed or unregistered vendor.

1948 (j) Gaming licensees shall have a continuing duty to inform
1949 the commission of all vendor contracts.

1950 (k) A license or registration issued pursuant to this section
1951 shall be issued for a term of 3 years. It shall be the
1952 responsibility of the employee to ensure that their license is
1953 current.

1954 (l) The commission shall establish fees for gaming vendor
1955 licenses which shall include costs incurred for conducting a
1956 background investigation into an applicant for said license.

1957 **Section 26.** (a) Each labor organization, union or affiliate
1958 seeking to represent employees who are employed at a gaming
1959 establishment, including any related facilities, shall register
1960 with the commission.

1961 (b) Neither a labor organization, nor its officers who are not
1962 otherwise licensed or registered under this chapter, may hold
1963 any financial interest in a gaming establishment whose employees
1964 they represent.

Section 27. (a) No category 1, category 2 or category 3 licensee shall conduct gaming without an operations certificate issued by the commission. An operations certificate shall only be issued upon compliance with the requirements of this chapter including;

- (1) implementation of all management controls required by the commission including, without limitation, controls on accounting, wagering and auditing;
- (2) implementation of all security precautions required by the commission;
- (3) an up to date listing of all gaming employees;
- (4) licensing of all gaming employees;
- (5) the provision of office space at the facility for use by the commission employees;
- (6) the hours of operation of the facility;

and that its personnel and procedures are efficient and prepared to entertain the public.

The operations certificate shall be conspicuously posted and shall state the number of slot machines, table games or other authorized games, if applicable.

(b) A category 1, category 2, or category 3 licensee may operate a gaming establishment from 6:00 am to 5:59 am; provided, however, that said licensee registers their hours of operation with the commission.

(c) Each gaming licensee shall arrange its gaming facility in such a manner as to promote optimum security for the gaming facility operations , including but not limited to: (1) a

1988 closed circuit television system according to specifications
1989 approved by the commission, with access on the licensed premises
1990 to the system or its signal provided to the commission; (2) one
1991 or more rooms or locations approved by the commission for use by
1992 commission employees; and (3) design specifications that insure
1993 that visibility in a facility is not obstructed in any way that
1994 might interfere with the ability of the commission or the
1995 division to supervise facility operations.

1996 (d) Each applicant for a gaming license shall submit to the
1997 commission a description of its minimum system of internal
1998 procedures and administrative and accounting controls for gaming
1999 and any simulcast wagering operations accompanied by a
2000 certification by its chief legal officer that the submitted
2001 procedures conform to the provisions of this chapter and any
2002 regulations promulgated thereunder as well as a certification by
2003 its chief financial officer that the submitted procedures
2004 provide adequate and effective controls, establish a consistent
2005 overall system of internal procedures and administrative and
2006 accounting controls and conform to generally accepted accounting
2007 principles and any additional standards required by the
2008 commission. Each applicant shall make its submission at least
2009 30 business days before such operations are to commence unless
2010 otherwise directed by the commission; provided, however, that no

2011 gaming licensee shall commence gaming operations or alter its
2012 minimum internal controls until such system of minimum controls
2013 is approved by the commission. The commission shall establish
2014 regulations for the information required in said internal
2015 control submission.

2016 Any proposed changes to a gaming licensee's system of internal
2017 procedures and controls shall be submitted to the commission
2018 along with 2 new certifications from its chief legal and
2019 financial officers. Pending no objections from the commission,
2020 the gaming licensee may make said changes 15 business days after
2021 submitting a description of the changes to the commission.

2022 (e) Gaming equipment shall not be possessed, maintained or
2023 exhibited by any person on the premises of a gaming
2024 establishment except in a gaming area approved by the commission
2025 or in a restricted area used for the inspection, repair or
2026 storage of such equipment and specifically designated for that
2027 purpose.

2028 (f) Each gaming facility shall contain a count room and such
2029 other secure facilities as may be required by the commission for
2030 the counting and storage of cash, coins, tokens, checks,
2031 plaques, gaming vouchers, coupons and other devices or items of
2032 value used in wagering and approved by the commission that are
2033 received in the conduct of gaming and for the inspection,

2034 counting and storage of dice, cards, chips and other
2035 representatives of value.

2036 (g) A dealer may accept tips or gratuities from a patron at
2037 the table game where such dealer is conducting play; provided,
2038 however, that such tips or gratuities shall be placed in a pool
2039 for distribution among other dealers. The commission shall
2040 determine how tips and gratuities shall be set aside for the
2041 dealer pool as well as the manner of distribution among dealers.

2042 (h) No person under the age of 21 shall be permitted to wager
2043 or be in an area of a facility where gaming is conducted;
2044 provided, however, that a person 18 years or over of age who is
2045 a licensed employee of the gaming operation may be in an area of
2046 a facility where gaming is conducted if in the performance of
2047 the duties he is licensed to undertake.

2048 (i) No category 1, category 2 or category 3 licensee shall
2049 operate unless the facility manager or his designee is on the
2050 premises and representatives of the commission are present at
2051 the facility; provided, further that the commission may allow a
2052 gaming licensee to conduct gaming operations for a period not to
2053 exceed 48 hours pursuant to a duly filed emergency operations
2054 plan previously filed with, and approved by, the commission that
2055 addresses the internal procedures to be followed during such an

2056 emergency to ensure that the gaming licensee and its employees
2057 comply with all pertinent statutes and regulations.

2058 (j) Each gaming establishment shall file an emergency response
2059 plan with the fire department and police department of the host
2060 community which shall include without limitation: (1) a layout
2061 identifying all areas within the facility and grounds including
2062 support systems and the internal and external access routes; (2)
2063 the location and inventory of emergency response equipment and
2064 the contact information of the emergency response coordinator
2065 for the facility; (3) the location of any hazardous substances
2066 as well as a description of any public health or safety hazards
2067 present on site; (4) a description of any special equipment
2068 needed to respond to an emergency at the facility; (5) an
2069 evacuation plan; and (6) any other information relating to
2070 emergency response as requested by the fire department or the
2071 police department of the host community.

2072 **Section 28.** (a) Notwithstanding any general or special law, rule
2073 or regulation to the contrary, an applicant for a category 1
2074 license may request with their gaming license application, and
2075 the commission may grant, a resort casino beverage license for
2076 the sale and distribution of alcoholic beverages to be drunk on
2077 the premises of a resort casino including any associated hotel
2078 and individual rooms and mini-bars at such hotels. No alcoholic

2079 beverages shall be sold or distributed on the premises of a
2080 gaming establishment without such a license. The authority to
2081 enforce, regulate and control the distribution of alcoholic
2082 beverages in the resort casino shall be exclusively vested in
2083 the commission.

2084 (b) Except as otherwise provided in this section, or by
2085 regulations promulgated by the commission, the provisions of
2086 chapter 138 and the rules and regulations promulgated by the
2087 alcoholic beverages control commission shall apply to a resort
2088 casino and a resort casino beverage license.

2089 (c) Issuance fees for the casino beverage license shall be
2090 included with the gaming application fee. If a category 1
2091 licensee does not apply for a casino beverage license at the
2092 time of application, said licensee shall be subject to an
2093 additional licensing fee determined by the commission.

2094 (d) A licensee under this section shall be permitted to
2095 distribute alcohol free of charge and for on-premise consumption
2096 to patrons on the casino floor or as a complimentary service or
2097 item in the gaming establishment; provided, however, that the
2098 commission shall promulgate regulations on such distribution as
2099 well as the forms of identification that may be presented to the
2100 licensee to demonstrate proof that a person has attained the age
2101 of 21.

2102 (e) A licensee under this section shall be permitted to sell
2103 alcohol daily after 8 antemeridian and before 2 antemeridian.

2104 (f) The request submitted to the commission for a resort
2105 casino beverage license by an applicant or licensee for a
2106 category 1 license shall detail all areas where alcoholic
2107 beverages will be served within the resort casino. In issuing
2108 said license, the commission shall describe the scope of the
2109 particular license and any restrictions and limitations.

2110 (g) A category 1 licensee shall be responsible for any
2111 violations of their casino beverages license in the gaming
2112 establishment. The commission may revoke, suspend, refuse to
2113 renew or refuse to transfer any resort casino beverage license
2114 for violations of any provision of chapter 138, regulations
2115 promulgated by the alcoholic beverages control commission and
2116 the regulations promulgated by the commission. If, at any time,
2117 a licensee elects temporary suspension of their category 1
2118 license due to violations of this section, said licensee shall
2119 owe the commonwealth the average tax on gross gaming revenue
2120 based on an appropriate period of time as determined by the
2121 commission for the number of days operation was suspended.

2122 (h) A resort casino beverage license shall be nontransferable
2123 without prior approval from the commission. If the license
2124 granted under this act is cancelled, revoked or no longer in

2125 use, it shall be returned physically, with all the legal rights,
2126 privileges and restrictions pertaining thereto, to the
2127 commission and the commission may then grant the license to a
2128 new gaming licensee under the same conditions as specified in
2129 this section.

2130 (i) A license granted under this section shall not decrease
2131 the number of such licenses authorized to be granted to the host
2132 community under the provisions of chapter 138.

2133 **Section 29.** (a) A gaming licensee shall be permitted to issue
2134 credit to a patron of a gaming establishment in accordance with
2135 regulations promulgated by the commission. Such regulations
2136 shall include, but not be limited to: (i) procedures for
2137 confirming that a patron has an established credit history and
2138 is in good standing; (ii) whether the patron has a good credit
2139 history with the gaming establishment; (iii) authorization of
2140 any credit instrument; (iv) methods for acknowledging a credit
2141 instrument and payment of debt; and (v) information to be
2142 provided by the patron to the gaming establishment to be shared
2143 with the commission for auditing purposes.

2144 (b) Except as otherwise authorized by the commission through
2145 regulations pursuant to this chapter, no facility , nor any
2146 person acting on behalf of said facility shall: (1) cash any
2147 check, make any loan, or otherwise provide or allow to any

2148 person any credit or advance of anything of value, or which
2149 represents value, to enable any person to place a wager; or (2)
2150 release or discharge any debt, either in whole or in part, or
2151 make any loan which represents any losses incurred by any player
2152 in gaming or simulcast wagering activity, without maintaining a
2153 written record thereof in accordance with the rules of the
2154 commission. Nothing in this section shall prohibit a facility
2155 from accepting credit cards for non-gaming related purchases or
2156 services.

2157 (c) Checks cashed in conformity with the requirements of this
2158 chapter shall be valid instruments enforceable under the laws of
2159 the commonwealth. Any check cashed, transferred, conveyed or
2160 given in violation of this chapter or regulations promulgated
2161 thereunder shall be invalid and unenforceable.

2162 (d) The commission shall establish, by regulation, procedures
2163 and standards for approving promotional gaming credits, provided
2164 that no such credit shall be reported as a promotional gaming
2165 credit by an operator of a licensed gaming establishment unless
2166 the operator can establish that the credit was issued by the
2167 gaming establishment and received from a patron as a wager at a
2168 slot machine in the gaming establishment, provided further that
2169 such promotional gaming credit shall not be taxable for the
2170 purposes of determining gross revenue.

2171 (e) No other person or entity, other than a gaming licensee
2172 licensed pursuant to this chapter, shall issue credit to a
2173 patron of a gaming establishment.

2174 (f) A person may petition the commission to place his name on
2175 a list of persons to whom the extension of credit by a gaming
2176 establishment shall be prohibited. Any person filing such
2177 petition shall submit to the commission the person's name,
2178 address, and date of birth. The person shall not be required to
2179 provide a reason for said request. The commission shall provide
2180 this list to the credit department of each gaming establishment;
2181 provided, however, that neither the commission nor the credit
2182 department of a gaming establishment shall divulge the names on
2183 this list to any person or entity other than those provided for
2184 in this subsection. If such a person wishes to have their name
2185 removed from the list, the person shall petition the commission
2186 in accordance with procedures for removal set forth by the
2187 commission. If the commission approves the request, the
2188 commission shall so inform the credit department of the gaming
2189 establishments no later than 7 days after approving the request.

2190 (g) Debt collections pursuant to this section and regulations
2191 promulgated thereunder shall be limited to gaming key employees
2192 or attorneys acting directly on behalf of gaming licensees;
2193 provided further that a gaming key employee shall be prohibited

2194 from making any such collections if they serve as a junket
2195 representative for the gaming licensee.

2196 **Section 30.** (a) No junkets may be organized or permitted and no
2197 person may act as a junket representative or junket enterprise
2198 except as authorized by the commission pursuant to this chapter.

2199 (b) A junket representative employed by a gaming licensee or
2200 affiliate of said licensee shall be licensed as a gaming
2201 employee in accordance with the provisions set forth in **section**
2202 **25**, including provisions for the issuance of a temporary
2203 license; provided, however that said licensee need not be a
2204 resident of the commonwealth. Any person who holds a valid
2205 gaming employee license may act as a junket representative while
2206 employed by a gaming license or an affiliate. No gaming
2207 licensee shall employ or otherwise engage a junket
2208 representative who is not licensed pursuant to this chapter.

2209 (c) The commission shall deny an application for a license
2210 under this section if the commission finds that an applicant is
2211 disqualified pursuant to **section 14** or may be unsuitable for
2212 licensure under any of the criteria set forth in **section 19**.

2213 (d) Each gaming licensee, junket representative or junket
2214 enterprise shall file a report with the bureau with respect to
2215 each list of junket patrons or potential junket patrons

2216 purchased directly or indirectly by the gaming licensee, junket
2217 representative or enterprise.

2218 (e) No junket enterprise or junket representative or person
2219 acting as a junket representative shall: (i) engage in efforts
2220 to collect upon checks that have been returned by banks without
2221 full and final payment; (ii) exercise approval authority with
2222 regard to the authorization or issuance of credit pursuant to
2223 this chapter; (iii) act on behalf of or under any arrangement
2224 with a gaming licensee or a gaming patron with regard to the
2225 redemption, consolidation, or substitution of the gaming
2226 patron's checks awaiting deposit; (iv) individually receive or
2227 retain any fee from a patron for the privilege of participating
2228 in a junket; or (v) pay for any services, including
2229 transportation, or other items of value provided to, or for the
2230 benefit of, any patron participating in a junket.

2231 (f) The commission shall promulgate further regulations
2232 concerning the conduct of junkets and conditions of junket
2233 agreements between gaming licensees and junket representatives.

2234 **Section 31.** (a) No gaming licensee shall offer to provide any
2235 complimentary services, gifts, cash or other items of value to
2236 any person unless the complimentary consists of room, food,
2237 beverage, transportation, or entertainment expenses provided
2238 directly to the patron and his guests by the licensee or

2239 indirectly to the patron and his guests on behalf of a third
2240 party, or the complimentary consists of coins, tokens, cash or
2241 other complimentary items or services provided through a
2242 complimentary distribution program which shall be filed and
2243 approved by the commission upon the implementation of the
2244 program or maintained pursuant to regulation.

2245 (b) A gaming licensee may offer and provide complimentary cash
2246 or noncash gifts which are not otherwise included in subsection
2247 (a) to any person, provided that any such gifts in excess of
2248 \$2,000 are documented by the licensee and detail the reasons why
2249 such gifts were provided to the patron.

2250 (c) Each gaming licensee shall maintain a regulated
2251 complimentary service account for those complementaries which
2252 are permitted under this section, and shall submit a quarterly
2253 report to the commission based upon such account and covering
2254 all complimentary services offered or engaged in by the licensee
2255 during the immediately preceding quarter. Such reports shall
2256 include identification of the regulated complimentary service
2257 and their respective costs, the number of persons by category of
2258 service who received the same and such other information as the
2259 commission may require.

2260 (d) The furnishing of a complimentary service or item by a
2261 casino licensee shall be deemed to constitute the indirect

2262 payment for the service or item by the casino licensee, and
2263 shall be valued in an amount based upon the retail price
2264 normally charged by the casino licensee for the service or
2265 item. The value of a complimentary service or item not normally
2266 offered for sale by a casino licensee or provided by a third
2267 party on behalf of a casino licensee shall be the cost to the
2268 casino licensee of providing the service or item, as determined
2269 in accordance with the rules of the commission.

2270 **Section 32.** (a) Upon revocation or suspension of a gaming
2271 license pursuant to **section 20**, or upon the failure or refusal
2272 to renew a gaming license the commission may appoint a
2273 conservator to temporarily manage and operate the business of
2274 the licensee relating to the gaming establishment. Such
2275 conservator shall be a person of similar experience in the field
2276 of gaming management and, in the case of replacing a gaming
2277 licensee, shall have experience operating a gaming facility of
2278 similar caliber in another jurisdiction, and shall be in good
2279 standing in all jurisdictions in which they operate any gaming
2280 facility.

2281 Upon appointment, a conservator shall agree to all licensing
2282 provisions of the former licensee.

2283 (b) A conservator shall, before assuming his duties, execute
2284 and file a bond for the faithful performance of his duties

2285 payable to the commission with such surety and in such form and
2286 amount as the commission shall approve.

2287 (c) The commission shall require that the former or suspended
2288 licensee purchase liability insurance, in an amount determined
2289 by the commission, to protect a conservator from liability for
2290 any acts or omissions of the conservator during his appointment
2291 which are reasonably related to, and within the scope of the
2292 conservator's duties.

2293 (d) During the period of temporary management of the resort
2294 casino, the commission shall initiate proceedings pursuant to
2295 this chapter to award a new gaming license to a qualified
2296 applicant whose gaming facility shall be located at the site of
2297 the preexisting gaming facility.

2298 (e) Applicants for a new gaming license shall be qualified for
2299 licensure pursuant to this chapter; provided, however, that the
2300 commission shall determine an appropriate level of investment by
2301 an applicant into the preexisting gaming facility.

2302 (f) Upon award of a gaming license, applicants shall pay the
2303 licensing fee for a category 1, category 2 or category 3
2304 license.

2305 **Section 33.** (a) There shall be within the commission an
2306 investigations and enforcement bureau, which shall be the

2307 primary enforcement agent for regulatory matters under this
2308 chapter and shall perform such functions as the executive
2309 director may determine in relation to such enforcement including
2310 the investigations of all licensees under this chapter..The
2311 bureau shall be under the supervision and control of the deputy
2312 director. The deputy director shall be the executive and
2313 administrative head of the bureau and shall be responsible for
2314 administering and enforcing the provisions of law relative to
2315 the bureau and to each administrative unit thereof. The duties
2316 given to the deputy director in this chapter and in any other
2317 general or special law shall be exercised and discharged subject
2318 to the direction, control and supervision of the executive
2319 director.

2320 (b) The bureau shall be a law enforcement agency and its
2321 employees shall have such law enforcement powers as to
2322 effectuate the purposes of this chapter, including the power to
2323 receive intelligence on any applicant or licensee under this
2324 chapter and to investigate any suspected violation of the
2325 provisions of this chapter.

2326 (c) Officers and employees of the gaming enforcement unit of
2327 the state police assigned to the commission pursuant to section
2328 70 of chapter 22C shall work with employees of the bureau, under
2329 the direction of the deputy director, to investigate violations

2330 of this chapter by any licensee under this chapter or any
2331 activity taking place on the premises of a gaming establishment.
2332 Officers assigned to work with the commission shall record their
2333 time and submit total hours to the commission. The commission
2334 shall reimburse the state police through monies appropriated
2335 from the gaming control fund pursuant to section 8.

2336 (d) The bureau shall notify the division of gaming enforcement
2337 in the office of the attorney general of any criminal violations
2338 by a gaming licensee. The bureau and the division shall
2339 cooperate on the regulatory and criminal enforcement of this
2340 chapter and may determine whether to proceed with civil or
2341 criminal sanctions, or both against said licensee.

2342 (e) To further effectuate the purposes of this chapter with
2343 respect to the investigation and enforcement of licensed gaming
2344 establishments and licensees, the bureau may obtain or provide
2345 pertinent information regarding applicants or licensees from or
2346 to law enforcement entities or gaming authorities and other
2347 domestic, federal or foreign jurisdictions, including the
2348 federal bureau of investigation, and may transmit such
2349 information to each other electronically.

2350 (f) The bureau, the division and the gaming enforcement unit
2351 of the department of state police shall have exclusive
2352 enforcement of any criminal violation that occurs inside a

2353 licensed gaming facility under this chapter; provided, however,
2354 that the state police shall execute a memorandum of
2355 understanding with the law enforcement agency of the host
2356 community that shall include, but not be limited to, procedures
2357 involving: (i) first responder calls from the gaming
2358 establishment; (ii) emergencies occurring within the gaming
2359 establishment, including the gaming facility; and (iii) criminal
2360 investigations involving employees or patrons of the gaming
2361 establishment; provided further that the bureau of
2362 investigations and enforcement shall have the authority to
2363 restrict areas in the gaming establishment with direct access to
2364 the gaming facility.

2365 **Section 34.** (a) The bureau shall have the authority to issue
2366 orders requiring persons to cease any activity which is in
2367 violation of the provisions of this chapter, any regulation
2368 adopted hereunder, or any law related to gaming in the
2369 commonwealth. The commission or bureau may, in its order,
2370 require compliance with such terms and conditions as are
2371 reasonably necessary to effect the purposes of this chapter.

2372 (b) If the bureau finds, in accordance with the procedures
2373 established in section 35 and the regulations adopted
2374 thereunder, that any person is not in compliance with any order
2375 issued pursuant to this section, it shall assess a civil

2376 administrative penalty on such person as provided in said
2377 section 35 and the regulations adopted thereunder. The penalty
2378 may be assessed whether or not the violation was willful. In
2379 determining the amount of the civil penalty, the bureau shall
2380 consider: (i) the nature of the violation; (ii) the length of
2381 time the violation occurred; (iii) the risk to the public and to
2382 the integrity of gaming operations created by the conduct of the
2383 licensee or registrant; (iv) the seriousness of the conduct of
2384 the licensee or registrant; (v) any justification or excuse for
2385 such conduct by the licensee or registrant; (vi) the prior
2386 history of the particular license or registrant involved with
2387 respect to gaming activity; (vii) any corrective action taken by
2388 the licensee or registrant to prevent future misconduct; (viii)
2389 and other relevant factors.

2390 (c) In addition to collecting any civil penalties recoverable
2391 under this chapter or any other general or special law, the
2392 bureau may bring an action in the superior court to restrain,
2393 prevent or enjoin any conduct prohibited by this chapter or to
2394 compel action to comply immediately and fully with any order
2395 issued by the bureau. Except in cases of emergency where, in the
2396 opinion of the court, immediate abatement of the unlawful
2397 conduct is required to protect the public interest, the court
2398 may in its decree fix a reasonable time during which the person

2399 responsible for the unlawful conduct may abate and correct the
2400 violation. The expense of the proceeding shall be recoverable
2401 from the licensee and deposited into the gaming revenue fund
2402 pursuant to section 52.

2403 (d) Upon a recommendation from the bureau, the commission
2404 shall issue orders to condition, suspend or revoke a license or
2405 permit issued under this chapter.

2406 (e) Notwithstanding the foregoing, the bureau shall be
2407 authorized to issue an order to cease and desist any activity if
2408 the bureau finds that a licensee has engaged in or is about to
2409 engage in an act or practice which constitutes a violation of
2410 this chapter or laws of the commonwealth and may take such
2411 affirmative action to effect the order. If the bureau finds
2412 that the licensee is engaged in an act or practice that would
2413 cause irreparable harm to the security and integrity of the
2414 gaming establishment or the interests of the commonwealth in
2415 ensuring the security and integrity of gaming under this
2416 chapter, the bureau may issue a temporary suspension of the
2417 license.

2418 (f) Any licensee who has been issued a temporary order of
2419 suspension by the bureau shall be entitled to a hearing before
2420 the commission on such suspension within 7 days that the order

2421 was issued. At the conclusion of the hearing, the commission
2422 may issue a final order to condition, suspend or revoke the
2423 license in question.

2424 (g) Any licensee shall have the right to an adjudicatory
2425 hearing on an order issued by the bureau or commission pursuant
2426 to chapter 30A.

2427 **Section 35.** (a) The bureau may assess a civil administrative
2428 penalty on a licensee or registrant who fails to comply with any
2429 provision of this chapter or any regulation or order adopted by
2430 the commission; provided, however, that such noncompliance
2431 occurred after the bureau had given such person written notice
2432 of such noncompliance and the time stated in said notice for
2433 coming into compliance had elapsed; provided, however, that the
2434 bureau may assess such penalty without providing such written
2435 notice if such failure to comply: (i) was part of a pattern of
2436 noncompliance and not an isolated instance; (ii) was willful or
2437 neglectful and not the result of error; (iii) resulted in a
2438 significant breach to the integrity of the gaming establishment
2439 or gaming laws of the commonwealth; and (iv) consisted of
2440 failure to promptly report any knowledge of a potential
2441 violation of this chapter to the commission. Any such penalty
2442 shall be in addition to any other civil penalty that may be
2443 prescribed by law.

2444 (b) For the purpose of determining whether such noncompliance
2445 was part of a pattern of noncompliance and not an isolated
2446 instance, the bureau shall consider without limitation the
2447 following: (i) whether the bureau had previously notified the
2448 person of such noncompliance on more than one occasion during
2449 the previous month or of any noncompliance with the same
2450 provision of a law, regulation, order, license or approval as
2451 the current noncompliance during the previous 6 month period; or
2452 (ii) whether the current and previous noncompliances, considered
2453 together, indicate a potential threat to the integrity of the
2454 gaming establishment and gaming in the commonwealth or an
2455 interference with the commission's ability to efficiently and
2456 effectively regulate gaming in the commonwealth and enforce any
2457 regulation, license or order. If a licensee or registrant who
2458 has received a notice of noncompliance fails to come into
2459 compliance within the time period stated in such notice, the
2460 civil administrative penalty may be assessed by the bureau upon
2461 such licensee or registrant from the date of receipt of such
2462 notice.

2463 (c) Whenever the bureau seeks to assess a civil administrative
2464 penalty on any licensee or registrant, the bureau shall cause to
2465 be served upon such licensee or registrant, either by service,
2466 in hand, or by certified mail, return receipt requested, a

2467 written notice of its intent to assess a civil administrative
2468 penalty which shall include a concise statement of the alleged
2469 act or omission for which such civil administrative penalty is
2470 sought to be assessed, each law, regulation, order, license or
2471 approval which has not been complied with as a result of such
2472 alleged act or omission, the amount which the bureau seeks to
2473 assess as a civil administrative penalty for each such alleged
2474 act or omission, a statement of such licensee's or registrant's
2475 right to an adjudicatory hearing on the proposed assessment, the
2476 requirements such licensee or registrant must comply with to
2477 avoid being deemed to have waived the right to an adjudicatory
2478 hearing and the manner of payment thereof if such person elects
2479 to pay the penalty and waive an adjudicatory hearing. After
2480 written notice of noncompliance or intent to assess a civil
2481 administrative penalty has been given, each such day thereafter
2482 during which such noncompliance occurs or continues shall
2483 constitute a separate offense and shall be subject to a separate
2484 civil administrative penalty if reasonable efforts have not been
2485 made to promptly come into compliance.

2486 (d) Whenever the bureau seeks to assess a civil administrative
2487 penalty on any licensee or registrant, such licensee or
2488 registrant shall have the right to an adjudicatory hearing under

2489 chapter 30A whose provisions shall apply except when they are
2490 inconsistent with the provisions of this chapter.

2491 (e) Such licensee or registrant shall be deemed to have waived
2492 such right to an adjudicatory hearing unless, within 21 days of
2493 the date of the bureau's notice that it seeks to assess a civil
2494 administrative penalty, such licensee or registrant files with
2495 the bureau a written statement denying the occurrence of any of
2496 the acts or omissions alleged by the bureau in such notice, or
2497 asserting that the money amount of the proposed civil
2498 administrative penalty is excessive. In any adjudicatory hearing
2499 authorized pursuant to chapter 30A, the bureau shall, by a
2500 preponderance of the evidence, prove the occurrence of each act
2501 or omission alleged by the bureau.

2502 (f) If a licensee or registrant waives his right to an
2503 adjudicatory hearing, the proposed civil administrative penalty
2504 shall be final immediately upon such waiver. If a civil
2505 administrative penalty is assessed at the conclusion of an
2506 adjudicatory hearing, said civil administrative penalty shall be
2507 final upon the expiration of 30 days if no action for judicial
2508 review of such decision is commenced pursuant to chapter 30A.

2509 (g) Any licensee or registrant who institutes proceedings for
2510 judicial review of the final assessment of a civil

2511 administrative penalty shall place the full amount of the final
2512 assessment in an interest-bearing escrow account in the custody
2513 of the clerk or magistrate of the reviewing court. The
2514 establishment of such an interest-bearing escrow account shall
2515 be a condition precedent to the jurisdiction of the reviewing
2516 court unless the party seeking judicial review demonstrates in a
2517 preliminary hearing held within 20 days of the filing of the
2518 complaint either the presence of a substantial question for
2519 review by the court or an inability to pay. Upon such a
2520 demonstration, the court may grant an extension or waiver of the
2521 interest-bearing escrow account or may require, in lieu of such
2522 interest-bearing escrow account, the posting of a bond payable
2523 directly to the commonwealth in the amount of 125 per cent of
2524 the assessed penalty. If, after judicial review, in a case where
2525 the requirement for an escrow account has been waived, and in
2526 cases where a bond has been posted in lieu of such requirement,
2527 the court affirms, in whole or in part, the assessment of a
2528 civil administrative penalty the commission shall be paid the
2529 amount thereof together with interest at the rate set forth in
2530 section 6C of chapter 231. If, after such review in a case where
2531 an interest-bearing escrow account has been established, the
2532 court affirms the assessment of such penalty, in whole or in
2533 part, the commission shall be paid the amount thereof together
2534 with the accumulated interest thereon in such interest-bearing

2535 escrow account. If the court sets aside the assessment of a
2536 civil administrative penalty in a case where the amount of such
2537 penalty has been deposited in an interest-bearing escrow
2538 account, the licensee or registrant on whom the civil
2539 administrative penalty was assessed shall be repaid the amount
2540 so set aside, together with the accumulated interest thereon.

2541 (h) Each licensee or registrant who fails to pay a civil
2542 administrative penalty on time, and each person who issues a
2543 bond pursuant to this section and who fails to pay to the
2544 commission on time the amount required hereunder, shall be
2545 liable to the commonwealth for up to 3 times the amount of the
2546 civil administrative penalty, together with costs, plus interest
2547 from the time the civil administrative penalty became final and
2548 attorneys' fees, including all costs and attorneys' fees
2549 incurred directly in the collection thereof. The rate of
2550 interest shall be the rate set forth in section 6C of chapter
2551 231. The bureau shall be authorized to require that the amount
2552 of a civil administrative penalty imposed pursuant to this
2553 section exceed any economic benefit realized by a person for
2554 noncompliance.

2555 **Section 36.** (a) Any person who willfully fails to report, pay,
2556 or truthfully account for and pay over any license fee or tax
2557 imposed by the provisions of this chapter or by the regulations

2558 promulgated hereunder, or willfully attempts in any manner to
2559 evade or defeat any such license fee, tax or payment thereof
2560 shall be punished by imprisonment in the state prison for not
2561 more than 5 years or in a jail or house of correction for not
2562 more than 2 and one-half years, or a fine of not more than
2563 \$100,000, or both such fine and imprisonment, and in the case
2564 of a person other than a natural person, the amount of a fine up
2565 to \$5,000,000.

2566 (b) Any person who willfully resists, prevents, impedes,
2567 interferes with, or makes any false, fictitious, or fraudulent
2568 statement or representation to the authority or to the division
2569 or to their agents or employees in the performance of their
2570 duties pursuant to this chapter shall be punished by
2571 imprisonment in the state prison for not more than 5 years or in
2572 a jail or house of correction for not more than 2 and one-half
2573 years, or a fine of not more than \$25,000, or both such fine or
2574 imprisonment.

2575 (c) Any person who conducts or operates, or permits to be
2576 conducted or operated, any game, electronic gaming equipment in
2577 violation of the licensing provisions of this chapter or the
2578 regulations adopted hereunder shall be punished by imprisonment
2579 in the state prison for not more than 5 years or imprisonment in
2580 a jail or house of correction for not more than 2 and one-half

2581 years, or a fine of not more than \$25,000, or both such fine or
2582 imprisonment, and in the case of a person other than a natural
2583 person, the amount of a fine up to \$100,000.

2584 (d) Any licensee who, without the permission of the authority,
2585 (1) places controlled games or electronic gaming equipment into
2586 play or displays such controlled games or electronic gaming
2587 equipment in gaming establishment or (2) receives, directly or
2588 indirectly, any compensation or reward or any percentage or
2589 share of the revenue, for keeping, running, or carrying on any
2590 controlled game, or owning the real property or location in
2591 which any controlled game occurs, shall be punished by
2592 imprisonment in a jail or house of correction for not more than
2593 2 and one-half years, or by a fine of not more than \$25,000, or
2594 both, and in the case of a person other than a natural person,
2595 the amount of a fine up to \$100,000.

2596 (e) Any person who conducts or operates any controlled game or
2597 electronic gaming equipment after his license has expired and
2598 prior to the actual renewal thereof shall be punished by
2599 imprisonment in a jail or house of correction for not more than
2600 1 and one-half years, or a fine of not more than \$25,000, or
2601 both such fine or imprisonment, and in the case of a person
2602 other than a natural person, the amount of a fine up to
2603 \$100,000.

2604 (f) In addition to the provisions of section 75 of chapter
2605 266, a person is guilty of swindling and cheating if the person
2606 purposely or knowingly by any trick or sleight of hand
2607 performance or by a fraud or fraudulent scheme, cards, dice, or
2608 other gaming equipment, for himself or for another or a
2609 representative of either, wins or attempts to win money or
2610 property, , or reduces a losing wager or attempts to reduce a
2611 losing wager in connection to controlled gaming.

2612 (g) The penalties for swindling and cheating offenses shall be
2613 as follows:

2614 Any person who swindles or cheats where the amount involved is
2615 \$75,000 or more shall be punished by imprisonment in the state
2616 prison for not more than 10 years, or in a jail or house of
2617 correction for not more than 2 and one-half years or by a fine
2618 of not more than \$1,000,000, or both such fine or imprisonment.

2619 Any person who swindles or cheats where the amount involved is
2620 \$10,000 or more and less than \$75,000 shall be punished by
2621 imprisonment in the state prison for not more than 5 years, or
2622 in a jail or house of correction for not more than 2 and one-
2623 half years or by a fine of not more than \$500,000, or both.

2624 Any person who swindles or cheats where the amount involved is
2625 \$1,000 or more and less than \$10,000 shall be punished by

2626 imprisonment in the state prison for not more than 3 years or
2627 imprisonment in a jail or house of correction for not more than
2628 2 and one-half years, or by a fine of not more than \$100,000, or
2629 both such fine and imprisonment.

2630 Any person who swindles or cheats where the amount involved is
2631 less than \$1,000 shall be punished by imprisonment in a jail or
2632 house of correction for not more than 2 and one-half years, or
2633 by a fine of not more than \$10,000, or both such fine or
2634 imprisonment.

2635 (h) Each episode or transaction of swindling or cheating may
2636 be the subject of a separate prosecution and conviction. In the
2637 discretion of the prosecutor, multiple episodes or transactions
2638 of swindling and cheating committed as part of a single scheme
2639 or course of conduct may be treated as a single offense, and the
2640 amounts involved in acts of swindling and cheating committed
2641 according to a scheme or course of conduct, whether by the same
2642 person or several persons, may be aggregated in determining the
2643 amount involved in the offense.

2644 (i) Any person, who in playing, conducting or operating a game
2645 in a licensed gaming establishment, uses or assists another in
2646 the use of (1) a computerized, electronic, electrical, or
2647 mechanical device, which is designed, constructed, or programmed
2648 specifically for use in obtaining an advantage in any game in a

2649 licensed casino or gaming establishment or (2) any other
2650 swindling or cheating device, including, but not limited to,
2651 bogus or counterfeit chips, coins or dice; coins or tokens
2652 attached to strings or wires; marked cards; electronic or
2653 magnetic devices; or tools, drills, wires, keys, or devices
2654 designed for the purpose of and suitable for opening, entering,
2655 or affecting the operation of any gaming equipment, or for
2656 removing money or other contents there from, shall be punished
2657 by imprisonment in the state prison for not more than 5 years or
2658 imprisonment in a jail or house of correction for not more than
2659 2 and one-half years, or by a fine of not more than \$25,000, or
2660 both such fine and imprisonment.

2661 (j) Any person who possesses any computerized, electronic,
2662 electrical, or mechanical device or other swindling or cheating
2663 device described in clause (1) of subsection (i) with the intent
2664 to defraud, cheat, or swindle shall be punished by imprisonment
2665 in a jail or house of correction for not more than 2 and one-
2666 half years, or a fine of not more than \$10,000, or both such
2667 fine or imprisonment.

2668 (k) Possession of any computerized, electronic, electrical, or
2669 mechanical device or other swindling or cheating device
2670 described in clause (1) of subsection (i) within a casino or
2671 gaming establishment shall constitute prima facie evidence of an

2672 intent to defraud, cheat or swindle, except that possession by
2673 any licensee, or employee of a licensee, acting in furtherance
2674 of his employment within a licensed casino or gaming
2675 establishment shall not constitute such prima facie evidence.

2676 (l) Any swindling or cheating device used or possessed in
2677 violation of this section shall be subject to seizure and
2678 forfeiture by the bureau.

2679 (m) It shall be unlawful for any licensee or employee to:
2680 knowingly conduct or operate, or allow to be conducted or
2681 operated, any swindling or cheating game or device; or knowingly
2682 conduct or operate or expose for play any game or games played
2683 with cards, dice, or any electronic or mechanical device, or any
2684 combination of games or devices, which have in any manner been
2685 marked or tampered with, or placed in a condition, or operated
2686 in a manner, the result of which tends to deceive the public or
2687 tends to alter the normal random selection of characteristics or
2688 the normal chance of the game or to alter the result of the
2689 game.

2690 (n) Any person who violates this section shall be punished by
2691 imprisonment in the state prison for not more than 5 years or
2692 imprisonment in a jail or house of correction for not more than
2693 2 and one-half years, or by a fine of not more than \$25,000, or
2694 both such fine and imprisonment, and in the case of a person

2695 other than a natural person, the amount of a fine up to
2696 \$100,000.

2697 (o) Any swindling or cheating game or device used in violation
2698 of this section shall be subject to seizure and forfeiture by
2699 the division.

2700 (p) Any person who manufactures, distributes, sells, or
2701 services any gaming equipment in violation of the provisions of
2702 this chapter or the regulations promulgated by the authority for
2703 the purposes of defrauding, cheating, or swindling any person
2704 playing, operating, or conducting a controlled game at a casino
2705 or gaming establishment shall be punished by imprisonment in the
2706 state prison for not more than 5 years or imprisonment in a jail
2707 or house of correction for not more than 2 and one-half years,
2708 or a fine of not more than \$25,000, or both such fine and
2709 imprisonment.

2710 (q) Any such unlawfully manufactured, distributed, sold, or
2711 serviced gaming equipment shall be subject to seizure and
2712 forfeiture by the division.

2713 (r) Any person who, without obtaining the requisite license or
2714 registration as provided in this chapter, works or is employed
2715 in a position whose duties would require licensing or
2716 registration under the provisions of this chapter shall be

2717 punished by imprisonment in a house of correction for not more
2718 than 6 months, or a fine of not more than \$10,000, or both.

2719 (s) Any person who employs or continues to employ an
2720 individual not duly licensed or registered under the provisions
2721 of this chapter in a position the duties of which require a
2722 license or registration under the provisions of this chapter
2723 shall be punished by imprisonment in a jail or house of
2724 correction for not more than 6 months, or by a fine of not more
2725 than \$10,000, or both such fine or imprisonment, and in the case
2726 of a person other than a natural person, the amount of a fine up
2727 to \$100,000.

2728 (t) Any person under the age of 21 who plays, places wagers
2729 at, or collects winnings from, whether personally or through an
2730 agent, any controlled game shall be punished by imprisonment in
2731 a jail or house of correction for not more than 6 months, or a
2732 fine of not more than \$1,000, or both such fine or imprisonment.

2733 (u) Any licensee or employee who knowingly allows a person
2734 under the age of 21 to play, place wagers at, or collect
2735 winnings from any controlled game, whether personally or through
2736 an agent, shall be punished by imprisonment in a jail or house
2737 of correction for not more than 1 year, or a fine of not more
2738 than \$10,000, or both such fine or imprisonment, and in the case
2739 of a person other than a natural person, the amount of a fine

2740 may be up to \$500,000. A subsequent violation of this section
2741 shall subject the licensee or employee to imprisonment in a
2742 house of correction for not more than 2 years, or a fine of not
2743 more than \$50,000, or both such fine or imprisonment, and in the
2744 case of a person other than a natural person, the amount of a
2745 fine up to \$1,000,000.

2746 (w) This section shall apply to any person who, from within
2747 the commonwealth, transmits a wager to, or receives a wager
2748 from, another person or gaming establishment within or outside
2749 of the commonwealth (x) This section shall not apply to the use
2750 of a local area network as a means to place authorized wagers in
2751 a licensed gaming establishment, or use of said devices or
2752 equipment by the authority in its duties in regulating, enforcing
2753 or auditing a licensed gaming operator.

2754 (y) A licensee of a gaming establishment who knowingly fails
2755 to exclude from the premises of their licensed gaming
2756 establishment any person placed by the commission on the list of
2757 excluded persons shall be punished by a fine of not more than
2758 \$5,000 or by imprisonment in a jail or house of correction for
2759 not more than one year, or by both such fine and imprisonment.

2760 **Section 37.** All penalties collected pursuant to this chapter and
2761 any renewal fees for a gaming establishment shall be deposited
2762 into the gaming revenue fund established by section 52.

2763 **Section 38.** (a) The commission shall, by regulation, provide for
2764 the establishment of a list of excluded persons who are to be
2765 excluded or ejected from a gaming establishment. Such
2766 provisions shall include standards relating to persons: (1) who
2767 are repeat offenders as defined by the commission; (2) who are
2768 convicted of a criminal offense under the laws of any state or
2769 the United States, punishable by more than 6 months in prison or
2770 is a crime of moral turpitude; or (3) whose presence in a
2771 licensed gaming establishment would, in the opinion of the
2772 commission, pose an injurious threat to the interests of the
2773 commonwealth in the gaming establishment.

2774 (b) The commission shall further define categories of persons
2775 who shall be excluded pursuant to this section, including cheats
2776 and persons whose privileges for licensure or registration have
2777 been revoked. No person shall be placed on the list of excluded
2778 persons due to race, color, religion, national origin, ancestry,
2779 sexual orientation, disability or sex.

2780 (c) The commission shall impose sanctions upon a licensed
2781 gaming establishment if such establishment knowingly fails to
2782 exclude or eject from its premises any person placed by the
2783 commission on the list of excluded persons.

2784 (d) The list compiled by the commission of persons to be
2785 excluded shall not be deemed an all-inclusive list, and licensed

2786 gaming establishments shall have a duty to keep from their
2787 premises persons known to them to be within the classifications
2788 in subsection (a) or who whose presence in their establishment
2789 would be injurious to the interests of the gaming establishment
2790 itself or to the commonwealth, or both, as defined by standards
2791 set forth by the commission.

2792 (e) Upon petition by any unit under the commission or the
2793 division that the name of a person be placed on the list , the
2794 commission shall serve written notice upon such person by
2795 personal service, registered or certified mail return receipt
2796 requested to the last ascertainable address, or by publication
2797 in a daily newspaper of general circulation for 1 week.

2798 (f) Within 30 days of receipt of service by mail or 60 days
2799 after the last publication pursuant to subsection (c), a person
2800 placed on the list may request an adjudicatory hearing before
2801 the commission pursuant to chapter 30A and show cause as to why
2802 the name of said person should be removed from the list. If the
2803 commission determines that the regulation should not apply to
2804 the person, the commission shall remove them from the list and
2805 notify all gaming licensees under the chapter. Any such person
2806 aggrieved by a final decision of the commission in any
2807 adjudicatory proceeding under this section may petition for

2808 judicial review in accordance with the provisions of section 14
2809 of chapter 30A.

2810 (g) The commission shall establish a list of self-excluded
2811 persons from gaming activity at gaming establishments. A person
2812 may request his name to be placed on the list of self-excluded
2813 persons by filing a statement with the commission acknowledging
2814 that said person is a problem gambler and by agreeing that,
2815 during any period of voluntary exclusion, said person may not
2816 collect any winnings or recover any losses resulting from any
2817 gaming activity at a gaming establishment. The commission shall
2818 promulgate further regulations for the list of self-excluded
2819 persons including procedures for placement, removal and
2820 transmittal of such self-exclusion to gaming establishments.

2821 (g ½) Gaming establishments shall not market to persons on the
2822 excluded persons list.

2823 (h) A person who is prohibited from gaming in a gaming
2824 establishment pursuant to this section shall not collect any
2825 winnings or recover any losses arising as a result of any
2826 prohibited activity. Any winnings obtained by a prohibited
2827 persons shall be forfeited to the commission and deposited into
2828 the gaming revenue fund established by section 52.

2829 **Section 39.** (a) No applicant for a gaming license, nor any
2830 holding, intermediary or subsidiary company thereof, nor any
2831 officer, director, gaming key employee or principal employee of
2832 an applicant for or holder of a gaming license or of any
2833 holding, intermediary or subsidiary company thereof nor any
2834 person or agent on behalf of any such applicant, holder, company
2835 or person, shall directly or indirectly, pay or contribute any
2836 money or thing of value to any candidate for nomination or
2837 election to any public office in the commonwealth or to any
2838 group, political party, committee or association organized in
2839 support of any such candidate or political party; except that
2840 the provisions of this section shall not be construed to
2841 prohibit any individual who is a candidate for public office
2842 from contributing to the candidate's own campaign.

2843 (b) No political contributions or contributions in kind shall be
2844 made to the governing body of a host community of any gaming
2845 establishment by a gaming licensee under this act outside of the
2846 host community agreement approved by the Massachusetts gaming
2847 commission. Any such contributions made to a host community by
2848 an applicant prior to issuance of a gaming license by the
2849 commission shall be disclosed by the applicant. This provision
2850 shall not preclude charitable contributions to a host community
2851 which shall be disclosed by a licensee to the commission.

2852 **Section 40.** (a) A category 1 licensee shall pay a daily tax of
2853 25 per cent on gross gaming revenues.

2854 (b) Category 2 and category 3 licensees shall pay a daily tax
2855 of 40 per cent on gross gaming revenue.

2856 (c) In addition to the tax imposed under subsection (b),
2857 category 2 licensees shall pay a daily assessment of 8 per cent
2858 and category 3 licensees shall pay a daily assessment of 10 per
2859 cent of their gross gaming revenue to the Massachusetts race
2860 horse development fund established by section 53.

2861 (d) If a category 2 and a category 3 license merger is
2862 approved by the commission pursuant to section 20, the new
2863 category 2 licensee shall pay a daily assessment of 9 per cent
2864 of their gross gaming revenue to the Massachusetts race Horse
2865 Development Fund established by section 53.

2866 (e) Taxes imposed under this section shall be remitted to the
2867 commission by a gaming licensee the day following each day of
2868 wagering.

2869 **Section 41.** A category 1 licensee, a category 2 licensee and a
2870 category 3 licensee shall be subject to chapters 62 through 62E,
2871 inclusive, and chapters 63 through 63B, inclusive.

2872 **Section 42** Any liability to the commonwealth under this chapter
2873 shall constitute a debt to the commonwealth. Any such debt shall
2874 constitute a lien on all commercial property owned by a gaming
2875 licensee in the commonwealth, once a statement naming such
2876 licensee is recorded, registered or filed, and shall have
2877 priority over any encumbrance theretofore recorded, registered
2878 or filed with respect to any site.

2879 **Section 43.** Prior to disbursement of a prize in excess of \$600,
2880 a licensee shall review information furnished by the IV-D agency
2881 and by the department of revenue, as set forth in chapter 119A
2882 and in this section to ascertain whether the holder of a winning
2883 ticket owes past due child support to the commonwealth or to an
2884 individual to whom the IV-D agency is providing services, and to
2885 ascertain whether the holder of a winning ticket owes any past-
2886 due tax liability to the commonwealth. If the holder owes past-
2887 due child support or a past-due tax liability, the licensee
2888 shall notify the IV-D agency or the commonwealth, respectively,
2889 of the holder's name, address and social security number.
2890 Subsequent to statutory state and federal tax withholding, the
2891 licensee shall first disburse to the IV-D agency the full amount
2892 of the prize or such portion of the prize that satisfies the
2893 holder's past-due child support obligation and, if funds remain
2894 available after that disbursement, the licensee shall disburse

2895 to the department of revenue the full amount of the prize or
2896 such portion of the prize that satisfies the holder's past-due
2897 tax liability. The licensee shall disburse to the holder only
2898 that portion of the prize, if any, remaining after the holder's
2899 past-due child support obligation and the holder's past-due tax
2900 liability have been satisfied.

2901 **Section 44.** The division shall, on a monthly basis, transmit to
2902 the department of transitional assistance and to the IV-D
2903 agency, as set forth in chapter 119A, a list of all persons who
2904 were the holders of any winning ticket in excess of \$600.00 in
2905 the prior month. The information shall be provided in a format
2906 which is compatible with the automated data processing systems
2907 of said departments, to ensure the immediate identification of
2908 persons who may be receiving public assistance benefits. The
2909 information provided shall include the name, address and social
2910 security number of the holder of the winning ticket.

2911 **Section 45.** Unclaimed prize money shall be retained by the
2912 licensee for the person entitled thereto for 1 year after the
2913 drawing in which the prize was won. If no claim is made for said
2914 money within such year, the prize money shall be deposited in
2915 the gaming revenue fund established by section 52.

2916 **Section 46.** If the person entitled to a prize or any winning
2917 ticket is under the age of 21 years said prize shall be remitted

2918 to the commission and deposited into the gaming revenue fund
2919 established by section 52.

2920 **Section 47.** A gaming establishment, including any business
2921 located within such establishment, shall not be a certified
2922 project within the meaning of section 3F of chapter 23A. Gaming
2923 establishments shall not be designated an economic opportunity
2924 area within the meaning of section 3E of chapter 23A. Gaming
2925 establishments are not eligible for tax increment financing as
2926 set forth in section 59 of chapter 40 or special tax assessments
2927 set forth in section 3E of chapter 23A. Gaming establishments
2928 may not be classified and taxed as recreational land under the
2929 provisions of chapter 61B. Gaming establishments may not be
2930 designated as a development district within the meaning of
2931 chapter 40Q. Unless otherwise provided, a gaming establishment
2932 or any business located or to be located within a resort casino
2933 is not eligible for the following credits or deductions listed
2934 in chapter 62 or chapter 63: the investment tax credit under
2935 section 31A of chapter 63, the employment credit under section
2936 31C of chapter 63, the van pool credit under section 31E of
2937 chapter 63, the deduction for expenditures for industrial waste
2938 treatment or air pollution control under section 38D of chapter
2939 63, the deduction for compensation paid to an eligible business
2940 facility's employees domiciled in a section of substantial

2941 poverty under section 38F of chapter 63, the alternative energy
2942 sources deduction under section 38H of chapter 63, the research
2943 expense credit under section 38M of chapter 63, the economic
2944 opportunity area credit under section 6(g) of chapter 62, and
2945 section 38N of chapter 63, the abandoned building deduction
2946 under section 3B(a)(10) of chapter 62, and section 38O of
2947 chapter 63, the harbor maintenance tax credit under section 38P
2948 of chapter 63, the brownfields credit under section 6(j) of
2949 chapter 62, and section 38Q of chapter 63, the historic
2950 rehabilitation tax credit under section 6J of chapter 62 and
2951 section 38R of chapter 63, the automatic sprinkler system
2952 depreciation deduction under section 38S of chapter 63, and the
2953 credit for a solar water heating system under section 38T of
2954 chapter 63.

2955 **Section 48** The sale, assignment, transfer, pledge or other
2956 disposition of any security issued by a corporation, which holds
2957 a gaming license is conditional and shall be ineffective if
2958 disapproved by the commission. If at any time the commission
2959 finds that an individual owner or holder of any security of a
2960 corporate licensee or of a holding or intermediary company with
2961 respect thereto is not qualified under this chapter, and if as a
2962 result the corporate licensee is no longer qualified to continue
2963 as a gaming licensee in the commonwealth, the commission shall

2964 take any action necessary to protect the interests of the
2965 commonwealth including, but not limited to, suspension or
2966 revocation of the gaming license of the corporation.

2967 Each corporation which has been issued a gaming license
2968 pursuant to the provisions of this chapter shall file a report
2969 of any change of its corporate officers or members of its board
2970 of directors with the commission. No officer or director shall
2971 be entitled to exercise any powers of office until qualified by
2972 the commission.

2973 **Section 49.** The commission shall audit as often as the
2974 commission determines necessary, but not less than annually,
2975 the accounts, programs, activities, and functions of all
2976 licensees, and for said purpose the authorized officers and
2977 employees of the commission shall have access to such accounts
2978 at reasonable times and the commission may require the
2979 production of books, documents, vouchers and other records
2980 relating to any matter within the scope of such audit, except
2981 tax returns. The superior court shall have jurisdiction to
2982 enforce the production of records that the commission requires
2983 to be produced pursuant to this section, and the court shall
2984 order the production of all such records within the scope of any
2985 such audit. All such audits shall be conducted in accordance
2986 with generally accepted auditing standards established by the

2987 American Institute of Certified Public Accountants. In any audit
2988 report of the accounts, funds, programs, activities, and
2989 functions of a licensee issued by the commission, containing
2990 adverse or critical audit results, the commission may require a
2991 response, in writing, to such audit results. Such response shall
2992 be forwarded to the commission within 15 days of notification by
2993 the commission.

2994 On or before April 1 of each year, the commission shall submit
2995 a report to the clerks of the house of representatives and the
2996 senate who shall forward the same to the house and senate
2997 committees on ways and means which shall include, but not be
2998 limited to: (i) the number of audits performed under this
2999 section; (ii) a summary of findings under said audits; and (iii)
3000 the cost of each audit.

3001 **Section 50.** Unless the commission otherwise determines it to be
3002 in the best fiscal interests of the commonwealth, the commission
3003 shall utilize the services of a private testing laboratory that
3004 has obtained a license as a gaming vendor pursuant to section 26
3005 to perform the testing of slot machines and other gaming
3006 equipment, and may also utilize applicable data from any such
3007 private testing laboratory, or from a governmental agency of a
3008 state other than the Massachusetts, authorized to regulate slot
3009 machines and other gaming equipment.

3010 **Section 51.** There is hereby established and placed upon the books
3011 of the commonwealth a Gaming Licensing Fund which shall receive
3012 all licensing fees collected from applicants in receipt of a
3013 category 1, 2 or 3 gaming license. The fund shall expire on
3014 December 31, 2015. The commission shall be the trustee of the
3015 fund and shall transfer monies in the fund in order of the
3016 following provisions:-

3017 (1) \$15,000,000 to the community mitigation fund
3018 established by section 54;

3019 (2) \$5,000,000 to the General Fund to reimburse the
3020 General Fund for the initial regulatory costs of the
3021 commission;

3022 (3) \$40,000,000 to the local capital projects fund
3023 established by section 58;

3024 (4) \$50,000,000 shall be transferred to the Manufacturing
3025 Fund established by section 56;

3026 (5) \$25,000,000 shall be transferred to the Community
3027 College Fund established by section 57;

3028 (6) \$3,000,000 to the Massachusetts tourism fund
3029 established pursuant to section 35J of chapter 10;

3030 (7) Any remaining monies in the fund after disbursement to
3031 sections 1 through 6 shall be transferred to the
3032 commonwealth stabilization fund established by section 2H
3033 of chapter 29;

3034 **Section 52.** There is hereby established and placed upon the
3035 books of the commonwealth a Gaming Revenue Fund which shall
3036 receive revenues collected from the tax on gross gaming revenue
3037 received from gaming licensees. The commission shall be the
3038 trustee of the fund and shall transfer monies in the fund in
3039 accordance with the following provisions:-

3040 (1) Until a category 1 facility is operational, one hundred per
3041 cent of the revenue received from category 2 and category 3
3042 licensees shall be transferred to the gaming local aid fund
3043 established by section 55.

(2) Upon the opening of a category 1 facility, all monies received into the fund shall be transferred as follows:

(a) One per cent of revenues shall be transferred to the Massachusetts cultural council of which one half of revenues received shall be dedicated to the organization support program of the Massachusetts cultural council and of which not less than one half of revenues shall be dedicated to support not-for-profit or municipally-owned performing arts centers impacted as a result of the licensure of gaming facilities in the commonwealth of Massachusetts. Funds dedicated to such performing arts centers shall be for the purpose of subsidizing fees paid to touring shows or artists; provided, however that funding shall be appropriated through a competitive grant process to be developed and administered by the Massachusetts cultural council.

(b) one percent shall be transferred to the Massachusetts tourism fund established pursuant to section 35J of chapter 10 which shall fund tourist promotion agencies as defined in subsection (c).

(c) Two per cent shall be transferred to the community mitigation fund established by section 54; provided, however, that said fund balance shall not exceed \$15,000,000. Funds in excess of \$15,000,000 shall be transferred to the local capital projects fund established by section 58;

(d) Six per cent shall be transferred to the local capital projects fund established by section 58;

(e) Thirty per cent shall be transferred to the gaming local aid fund established by section 55;

(f) Thirty per cent shall be transferred to the commonwealth stabilization fund established by section 2H of chapter 29; provided, however, that in any fiscal year in which the amount appropriated in item 7061-0008 of the general appropriation act, paid from the General Fund, or the amount of unrestricted general government aid paid from the general fund, including lottery aid distribution to cities and towns as paid from the General Fund in accordance with clause (c) of the second paragraph of section 35 of chapter 10 of the General Laws and the amount of additional funds distributed to cities and towns as additional assistance paid from the General Fund, is less than that of the previous fiscal year, up to one-half of the funds otherwise directed to the Commonwealth Stabilization Fund pursuant to this section, up to an amount equal to the deficiency between said appropriations for the current and previous fiscal years, shall be transferred to the gaming local aid fund in addition to the thirty percent provided for in subsection (e);

3044 (g) Thirty per cent shall be transferred to the Education Fund
3045 established by section 59.

3046 **Section 53** (a) There is hereby established and placed upon the
3047 books of the commonwealth a Race Horse Development Fund to be
3048 administered by the commission. The commission shall make
3049 distributions from the race horse fund to each of the active and
3050 operating category 2 licensees conducting live racing.

3051 (b) Funds from the race horse development fund shall be
3052 distributed in proportion to the gross gaming revenue of each
3053 category 2 licensee; provided that the funds received by each
3054 licensee shall be allocated in accordance with the following
3055 provisions:

3056 (i) eighty per cent shall be deposited weekly into a
3057 separate, interest-bearing purse account to be established by
3058 and for the benefit of the horsemen. The earned interest on the
3059 account shall be credited to the purse account. Licensees shall
3060 combine these funds with revenues from existing purse agreements
3061 to fund purses for live races consistent with those agreements
3062 with the advice and consent of the horsemen;

3063 (ii) for a thoroughbred track, 16 per cent shall be
3064 deposited on a monthly basis into the Massachusetts thoroughbred

3065 breeding program authorized by the commission pursuant to
3066 section 2 of chapter 128;

3067 (iii) for a harness track, 8 per cent shall be deposited on
3068 a monthly basis into the Massachusetts standardbred breeding
3069 program authorized by the commission pursuant to section 2 of
3070 chapter 128 and an additional 8 per cent shall be deposited on a
3071 monthly basis into a standardbred breeder development program
3072 authorized by the commission;

3073 (iv) four per cent shall be used to fund health and pension
3074 benefits for the members of the horsemen's organizations
3075 representing the owners and trainers at the racetrack at which
3076 the category 2 licensee operates for the benefit of the
3077 organization's members, their families, employees and others in
3078 accordance with the rule and eligibility requirements of the
3079 organization, as approved by the commission. This amount shall
3080 be deposited within 5 business days of the end of each month
3081 into a separate account to be established by each respective
3082 horsemen's organization at a banking institution of its choice.
3083 Of this amount, the commission shall determine how much should
3084 be paid annually by the horsemen's organization to the
3085 thoroughbred jockeys or standardbred drivers organization at the
3086 racetrack at which the licensed racing entity operates for
3087 health insurance, life insurance or other benefits to active and

3088 disabled thoroughbred jockeys or standardbred drivers in
3089 accordance with the rules and eligibility requirements of that
3090 organization.

3091 **Section 54** (a) There shall be established and set up on the
3092 books of the commonwealth a separate fund to be known as the
3093 Community Mitigation Fund. The community fund shall consist of
3094 monies transferred under section **52** and all other monies
3095 credited or transferred to the fund from any other fund or
3096 source pursuant to law; provided, however, that the balance of
3097 the fund shall not exceed \$15,000,000.

3098 (b) The commission shall administer the fund and, without
3099 further appropriation, shall expend monies in the fund to assist
3100 contiguous communities in offsetting costs related to the
3101 construction and operation of a gaming facility including, but
3102 not limited to, communities and water and sewer districts in the
3103 vicinity of a gaming facility and public safety, including the
3104 office of the county district attorney.

3105 (c) Parties requesting appropriations from the community fund
3106 shall submit a written request for funding to the commission
3107 before February 1 of each year. The commission may hold a
3108 public hearing in the region of a gaming facility to provide
3109 parties with the opportunity to provide further information

3110 about their request for funds and shall distribute funds to
3111 requesting parties based on demonstrated need.

3112 **Section 55** There shall be established and set up on the books of
3113 the commonwealth a fund to be known as the Gaming Local Aid
3114 Fund. The gaming local aid fund shall consist of monies
3115 transferred under section 52 and all monies credited or
3116 transferred to the fund from any other fund or source pursuant
3117 to law.

3118 Notwithstanding any general or special law, rule or regulation
3119 to the contrary, monies from the gaming local aid fund shall be
3120 used in addition to the balance of the state lottery fund for
3121 distribution to cities and towns in accordance with the
3122 provisions of clause (c) of section 35 of chapter 10 and any
3123 monies so distributed shall be considered part of "General
3124 revenue sharing aid" for purposes of annual aid and contribution
3125 requirements established pursuant to chapter 70 or section 3 of
3126 the annual general appropriation act. Notwithstanding any law or
3127 regulation to the contrary, beginning the first year that Gaming
3128 Local Aid funding is available for distribution to cities and
3129 towns, no city or town shall receive as a combination of
3130 "General Revenue Sharing Aid" and "Gaming Local Aid", in any
3131 year, an amount that is less than 25 percent of the total
3132 lottery sales made within that community. Notwithstanding any

3133 special or general law to the contrary, the provisions of this
3134 paragraph shall not take effect until such time as the executive
3135 office of administration and finance and the department of
3136 revenue has furnished a study of its impact on the state's
3137 economy and revenue cost to the commonwealth and its cities and
3138 towns, including, but not limited to, a distributional analysis
3139 showing the impact on taxpayers of varying income levels, the
3140 current practice of other states, any anticipated change in
3141 employment and ancillary economic activity to the joint
3142 committee on revenue and until legislation has been filed and
3143 passed pursuant to Part 2, Chap. 1, Sec. 1, Art. II of the
3144 Constitution.

3145 **Section 56** There is hereby established and set up on the books
3146 of the commonwealth a fund to be known as the Manufacturing
3147 Fund. The manufacturing fund shall be credited any monies
3148 transferred under section 51 and all monies credited to or
3149 transferred to the fund from any other fund or source pursuant
3150 to law.

3151 **Section 57** There is hereby established and set up on the books
3152 of the commonwealth a fund to be known as the Community College
3153 Fund. The community college fund shall be credited any monies
3154 transferred under section 51 and all monies credited to or

3155 transferred to the fund from any other fund or source pursuant
3156 to law.

3157 **Section 58** There is hereby established and set up on the books
3158 of the commonwealth a fund to be known as the Local Capital
3159 Projects Fund. The local capital projects fund shall be credited
3160 any monies transferred under sections 51 or 52 and all monies
3161 credited to or transferred to the fund from any other fund or
3162 source pursuant to law.

3163 **Section 59** There is hereby established and set up on the books
3164 of the commonwealth a fund to be known as the Education Fund.
3165 The education fund shall be credited any monies transferred
3166 under section 52 and all monies credited to or transferred to
3167 the fund from any other fund or source pursuant to law.
3168 Expenditures from said fund for the purposes of K-12 education
3169 shall be used to supplement, and not offset, any reduction in
3170 line item 7061-0008 of the general appropriations act.

3171 **Section 60** The commission shall continue to evaluate the
3172 progress of federally recognized tribes in the commonwealth as
3173 they proceed with any applications to place land into trust for
3174 the purposes of tribal economic development. The commission
3175 shall determine whether it would be in the best interest of the
3176 commonwealth to enter into any negotiations with said tribes for
3177 the purposes of establishing Class III gaming on tribal land and

3178 shall submit reports as it deems necessary, but not less than
3179 once a year, to the governor and the clerks of the senate and
3180 house of representatives detailing any land in trust issues as
3181 well as the financing capabilities of a proposed tribal casino.

3182 **Section 61.** There shall be a gaming policy advisory council
3183 consisting of 14 members: 1 of whom shall be the state
3184 treasurer, or his designee; 1 of whom shall be the attorney
3185 general, or his designee; 1 of whom shall be the chair of the
3186 commission; 1 of whom shall be the secretary of administration
3187 and finance, or his designee; 1 of whom shall be appointed by
3188 the senate president; 1 of whom shall be appointed by the
3189 speaker of the house of representatives; 1 of whom shall be
3190 appointed by the minority leader of the senate; 1 of whom shall
3191 be appointed by the minority leader of the house of
3192 representatives; and 6 of whom shall be appointed by the
3193 governor, 1 of whom shall have an expertise in the treatment of
3194 gambling addiction, 1 of whom shall be a representative from the
3195 tourism industry, 1 of whom shall be a member of organized
3196 labor, 1 of whom shall be a representative from a licensed
3197 gaming establishment; and 2 of whom shall be appointed from the
3198 vicinity of each resort casino upon determination of the
3199 licensee and site location by the commission. The council shall
3200 establish a tourism subcommittee whose purpose is to develop

3201 policies that facilitate the integration of gaming
3202 establishments into local tourism regions. The subcommittee
3203 shall submit any proposed recommendations to the commission
3204 within 4 months of the deadline for receipt of applications for
3205 a gaming license pursuant to section 10. Members of the council
3206 shall serve for a term of two years. The council shall convene
3207 after all members have been appointed to the commission and
3208 annually thereafter unless otherwise convened by the governor
3209 for the purpose of discussing matters of gaming policy. The
3210 recommendations concerning gaming policy made by the council
3211 pursuant to this section shall not be binding on the commission.

3212 **Section 62.** The commission shall annually submit a complete and
3213 detailed report of the commission's activities within 90 days
3214 after the end of the fiscal year to the clerk of the house of
3215 representatives, the clerk of the senate, the chairs of the
3216 joint committee on economic development and emerging
3217 technologies and the chairs of the house and senate committees
3218 on ways and means.

3219 **SECTION 13** Section 1 of chapter 32 of the General Laws, as
3220 appearing in the 2008 Official Edition, is hereby amended by
3221 inserting after the word "connector", in line 211, the following
3222 words:- , the Massachusetts Gaming Commission,.

3223

3224 **SECTION 14.** Section 2 of chapter 32A of the General Laws, as so
3225 appearing, is hereby amended by inserting after the word
3226 "authority", in line 12, the following words:- , the
3227 Massachusetts gaming commission.

3228 **SECTION 15.** Section 94 of chapter 41 of the General Laws, as so
3229 appearing, is hereby amended by inserting after the word "and",
3230 in line 7, the first time it appears, the following word:
3231 illegal.

3232 **SECTION 16.** Section 18D of chapter 58 of the General Laws is
3233 hereby repealed

3234 **SECTION 17.** Subsection (d)(1) of section 2 of chapter 62 of the
3235 General Laws, as so appearing, is hereby amended by inserting
3236 after paragraph (P) the following paragraph:-

3237 (Q) Losses from wagering transactions shall be allowed only to
3238 the extent of the gains from such transactions pursuant to
3239 section 165 of the Code..

3240 **SECTION 18.** Section 2 of chapter 62B of the General Laws, as so
3241 appearing, is hereby amended by striking out the seventh
3242 paragraph and inserting in place thereof the following
3243 paragraph:-

3244 Every person, including the United States, the commonwealth
3245 or any other state, or any political subdivision or
3246 instrumentality of the foregoing, making any payment of lottery
3247 or wagering winnings, which are subject to tax under chapter 62
3248 and which are subject to withholding under section 3402(q)
3249 without the exception for slot machines, and keno, and bingo
3250 played at licensed casinos in the commonwealth in subsection
3251 (q) (5) and (r) of the Internal Revenue Code shall deduct and
3252 withhold from such payment an amount equal to 5 percent of such
3253 payment, except that such withholding for purposes of this
3254 chapter shall apply to payments of winnings of \$600 or greater
3255 notwithstanding any contrary provisions of the Internal Revenue
3256 Code, as amended from time to time. For purposes of this
3257 chapter and chapter 62C, such payment of winnings shall be
3258 treated as if it were wages paid by an employer to an employee.
3259 Every person who is to receive a payment of winnings which is
3260 subject to withholding under this section shall furnish to the
3261 person making such payment a statement, made under penalties of
3262 perjury, containing the name, address and taxpayer
3263 identification number of the person receiving the payment and of
3264 each person entitled to any portion of such payment.

3265 **SECTION 19.** Said chapter 62Bis hereby further amended by
3266 striking out section 5, as so appearing, and inserting in place
3267 thereof the following section:-

3268 Section 5. Every employer required to deduct and withhold from
3269 an employee or payee a tax under section 2, or who would have
3270 been required under said section in the case of an employee to
3271 deduct and withhold a tax if the employee had not claimed any
3272 personal exemption or dependency exemptions, shall furnish to
3273 each such employee or payee in respect of the wages or other
3274 payments paid by such employer to such employee or payee during
3275 the calendar year, on or before January 31 of the succeeding
3276 year, or, if an employee's employment is terminated before the
3277 close of such calendar year, within 30 days from the day on
3278 which the last payment of wages is made, a written statement in
3279 duplicate showing the name of the employer, the name of the
3280 employee or payee and his social security account number, if
3281 any, the total amount of wages or other amounts subject to
3282 taxation under chapter 62, and the total amount deducted and
3283 withheld as tax. This statement may contain such other
3284 information as the commissioner may prescribe. The commissioner
3285 may grant reasonable extensions of time, not exceeding 60 days,
3286 for the furnishing of the statement.

3287 Every employer who fails to withhold or pay to the commissioner
3288 any sums required by this chapter to be withheld or paid shall
3289 be personally and individually liable therefore to the
3290 commonwealth. The term "employer," as used in this section and
3291 in section 11, includes any person or entity required to
3292 withhold tax from any payee, and includes an officer or employee
3293 of a corporation, or a member or employee of a partnership or
3294 limited liability company, who as such officer, employee or
3295 member is under a duty to withhold and pay over taxes in
3296 accordance with this section and section 2. Any sum withheld in
3297 accordance with section 2 shall be considered to be held in
3298 trust for the commonwealth.

3299 If an employer in violation of the provisions of this chapter
3300 fails to withhold the tax in accordance with section 2, and
3301 thereafter the tax against which such tax may be credited,
3302 pursuant to section 9, is paid, the tax so required to be
3303 withheld shall not be collected from the employer; but this
3304 paragraph shall in no case relieve the employer from liability
3305 for any penalties or addition to the tax otherwise applicable in
3306 respect of such failure to withhold.

3307 **SECTION 20.** The first paragraph of section 8 of chapter 62C of
3308 the General Laws, as so appearing, is hereby amended by striking
3309 out the last sentence and inserting in place thereof the

3310 following sentence:-The same basis of reporting shall be
3311 utilized for income that is subject to taxation or withholding
3312 under chapter 62 or 62B but is not subject to taxation or
3313 withholding under the Code.

3314 **SECTION 21.** Subsection (f) of section 38 of chapter 63 of the
3315 General Laws, as so appearing, is hereby amended by striking
3316 out the third paragraph and inserting in place thereof the
3317 following paragraph:- ",

3318 For the purposes of this subsection: (1) in the case of the
3319 licensing of intangible property, the income-producing activity
3320 shall be considered to be performed in the commonwealth to the
3321 extent that the intangible property is used in the commonwealth;
3322 (2) the corporation shall be considered to be taxable in the
3323 state of the purchaser if the tangible personal property is
3324 delivered or shipped to a purchaser in a foreign country; (3)
3325 sales of tangible personal property to the United States
3326 government or any agency or instrumentality thereof for purposes
3327 of resale to a foreign government or any agency or
3328 instrumentality thereof are not sales made in the commonwealth;
3329 (4) in the case of the sale, exchange or other disposition of a
3330 capital asset, as defined in paragraph (m) of section 1 of
3331 chapter 62, used in a taxpayer's trade or business, including a
3332 deemed sale or exchange of such asset, "sales'' are measured by

3333 the gain from the transaction; (5) "security" means any
3334 interest or instrument commonly treated as a security as well as
3335 other instruments which are customarily sold in the open market
3336 or on a recognized exchange, including, but not limited to,
3337 transferable shares of a beneficial interest in any corporation
3338 or other entity, bonds, debentures, notes, and other evidences
3339 of indebtedness, accounts receivable and notes receivable, cash
3340 and cash equivalents including foreign currencies, and
3341 repurchase and futures contracts; (6) in the case of a sale or
3342 deemed sale of a business, the term "sales" does not include
3343 receipts from the sale of the business "good will" or similar
3344 intangible value, including, without limitation, "going concern
3345 value" and "workforce in place."; (7) to the extent authorized
3346 pursuant to the life sciences tax incentive program established
3347 by section 5 of chapter 23I, a certified life sciences company
3348 may be deemed a research and development corporation for
3349 purposes of exemptions under chapters 64H and 64I; and (8) in
3350 the case of a business deriving receipts from operating a gaming
3351 facility or otherwise deriving receipts from conducting a
3352 wagering business or activity, income-producing activity shall
3353 be considered to be performed in this commonwealth to the extent
3354 that the location of wagering transactions or activity that
3355 generated the receipts is in this commonwealth.

3356 **SECTION 22.** Section 2 of chapter 128 of the General Laws, as so
3357 appearing, is hereby amended by striking out, in line 99, the
3358 words "or dog".

3359 **SECTION 23.** Said section 2 of said chapter 128, as so
3360 appearing, is hereby further amended by striking out subsection
3361 (i).

3362 **SECTION 24.** Section 1 of chapter 128A of the General Laws, as so
3363 appearing, is hereby amended by striking out, in line 6, the
3364 words "state racing commission" and inserting in place thereof
3365 the following words:- Massachusetts gaming commission
3366 established pursuant to chapter 23K.

3367 **SECTION 25.** Chapter 128A of the General Laws is hereby
3368 repealed. .

3369 **SECTION 26.** Section 1 of chapter 128C of the General Laws, as
3370 appearing in the 2008 Official Edition, is hereby amended by
3371 striking out, in line 12, the words "state racing commission"
3372 and inserting in place thereof the following words:-
3373 Massachusetts gaming commission established pursuant to chapter
3374 23K.

3375 **SECTION 27.** Said chapter 128C of the General Laws is hereby
3376 repealed.

3377 **SECTION 28.** Section 1 of chapter 137 of the General Laws, as
3378 appearing in the 2008 Official Edition, is hereby amended by
3379 inserting after the words "gaming,", in line 2, the following
3380 words:- ,except for gaming conducted in licensed gaming
3381 establishments pursuant to chapter 23K.

3382 **SECTION 29.** Section 2 of said chapter 137, as so appearing, is
3383 hereby amended by striking out, in line 2, the word "where" and
3384 inserting in place thereof the following words:- , except for
3385 an owner or operator of a licensed gaming establishment pursuant
3386 to chapter 23K, where.

3387 **SECTION 30.** Section 3 of said chapter 137, as so appearing, is
3388 hereby amended by inserting after the words "betting,", in line
3389 5, the following words:- ,except for legalized gaming conducted
3390 pursuant to chapter 23K.

3391

3392 **SECTION 31.** Section 18 of chapter 139 of the General Laws, as so
3393 appearing, is hereby amended by inserting after the word "of",
3394 in line 6, the word:- illegal.

3395 **SECTION 32.** Section 177A of chapter 140 of the General Laws, as
3396 so appearing, is hereby amended by inserting after the word
3397 "machines", in line 12, the following words:- , and excluding
3398 slot machines as defined by chapter 23K.

3399 **SECTION 33.** Section 26A of chapter 180 of the General Laws, as
3400 so appearing, is hereby amended by striking out, in lines 4 and
3401 16, the following words " or dog".

3402 **SECTION 34.** The General Laws are hereby amended by inserting
3403 after chapter 267 the following chapter:-

3404 Chapter 267A

3405 Money Laundering

3406 Section 1. As used in this chapter, the following words shall,
3407 unless the context clearly requires otherwise, have the
3408 following meanings:-

3409 "Conducts", initiates, concludes or participates in initiating
3410 or concluding a transaction.

3411 "Criminal activity", a criminal offense punishable under the
3412 laws of the commonwealth by imprisonment in a state prison or a
3413 criminal offense committed in another jurisdiction punishable
3414 under the laws of that jurisdiction as a felony.

3415 "Financial institution", any: (1) bank as defined in section 1
3416 of chapter 167; (2) national banking association, bank, savings
3417 and loan, savings bank, cooperative bank, building and loan, or
3418 credit union organized under the laws of the United States; (3)
3419 banking association, bank, savings and loan, savings bank,

3420 cooperative bank, building and loan or credit union organized
3421 under the laws of any state; (4) any agency, agent, or branch of
3422 a foreign bank; (5) currency dealer or exchange; (6) any person
3423 or business engaged primarily in the cashing of checks; (7)
3424 person or business regularly engaged in the issuing, selling, or
3425 redeeming of traveler's checks, money orders or similar
3426 instruments; (8) broker or dealer in securities or commodities;
3427 (9) licensed transmitter of funds or other person or business
3428 regularly engaged in the transmission of funds to a foreign
3429 nation for others; (10) investment banker or investment company;
3430 (11) insurer; (12) dealer in precious metals, stones or jewels;
3431 (13) pawnbroker or scrap metal dealer; (14) telegraph or other
3432 communications company; (15) personal property or real estate
3433 broker; (16) dealer in vehicles, including, but not limited to,
3434 automobiles, aircraft and vessels; (17) operator of a betting or
3435 gambling facility; (18) travel agent; any thrift institution;
3436 any operator of a credit card system; or (19) any loan or
3437 finance company.

3438 "Monetary instrument", the currency and coin of the United
3439 States or any foreign country; any bank check, money order,
3440 stock, investment security, or negotiable instrument in bearer
3441 form or otherwise in such form that title passes upon delivery;
3442 gold, silver or platinum bullion or coins; diamonds, emeralds,

3443 rubies, or sapphires; any negotiable instrument including: bank
3444 checks, cashier's checks, traveler's checks, or monetary orders
3445 made payable to the order of a named party that have not been
3446 endorsed or which bear restrictive endorsements; poker chips,
3447 vouchers or other tokens exchangeable for cash by gaming
3448 entities; and credit cards, debit cards, gift cards, gift
3449 certificates, calling cards, or scrips.

3450 "Transaction", a purchase, sale, loan, pledge, gift, transfer,
3451 delivery, or other disposition, and with respect to a financial
3452 institution includes a deposit, withdrawal, bailment, transfer
3453 between accounts, exchange of currency, loan, extension of
3454 credit, purchase or sale of any stock, bond, certificate of
3455 deposit, or other monetary instrument, use of a safe deposit
3456 box, or any other payment, transfer, or delivery by, through, or
3457 to a financial institution, by whatever means effected.

3458 Section 2. Whoever knowingly: (1) engages in a transaction
3459 involving a monetary instrument or other property known to be
3460 derived from criminal activity with the intent to promote, carry
3461 on or facilitate criminal activity, or knowing that the
3462 transaction is designed in whole or in part either to conceal or
3463 disguise the nature, location, source, ownership or control of
3464 the property derived from criminal activity or to avoid a
3465 transaction reporting requirement of this chapter, of the United

3466 States, or of any other state; (2) transports or possesses a
3467 monetary instrument or other property that was derived from
3468 criminal activity; or (3) directs, organizes, finances, plans,
3469 manages, supervises, or controls the transportation of or
3470 transactions in monetary instruments or other property known to
3471 be derived from criminal activity or which a reasonable person
3472 would believe to be derived from criminal activity; is guilty of
3473 the crime of money laundering and shall be punished by
3474 imprisonment in the state prison for not more than 6 years or by
3475 a fine of not more than \$250,000 or twice the value of the
3476 property transacted, whichever is greater, or by both such
3477 imprisonment and fine; and for any subsequent offense shall be
3478 punished by imprisonment in the state prison for not less than 2
3479 years, but not more than 8 years or by a fine of not more than
3480 \$500,000 or 3 times the value of the property transacted,
3481 whichever is greater, or by both such imprisonment and fine.

3482 Section 3. (a) A financial institution shall file with the
3483 attorney general a copy of any and all reports required by the
3484 Currency and Foreign Transactions Act, set forth in 31 U.S.C.,
3485 sections 5311 through 5315, 31 C.F.R. 103.

3486 (b) A financial institution, or any officer, employee, or
3487 agent thereof that maintains and files a record in reliance of
3488 this section shall not be liable to its customer, to a state or

3489 local agency, or to any person for any loss or damage caused in
3490 whole or in part by the making, filing, or governmental use of
3491 the report, or any information contained therein. Nothing in
3492 this chapter shall be construed to give rise to a private cause
3493 of action for relief or damages. This paragraph does not
3494 preclude a financial institution, in its discretion, from
3495 instituting contact with, and thereafter communicating with and
3496 disclosing customer financial records to appropriate federal,
3497 state, or local law enforcement agencies when the financial
3498 institution has reason to suspect that the records or
3499 information demonstrate that the customer has violated any
3500 provisions of this chapter.

3501 (c) Any report, record, or information obtained by the
3502 attorney general pursuant to this section is not a public record
3503 and is not subject to disclosure, except to other state and
3504 federal law enforcement agencies.

3505 (d) Any violation of this section, which is not a violation of
3506 section 2, shall be punished by a fine of \$100 for each report
3507 not filed.

3508 (e) The timely filing of complete and accurate reports
3509 required under subsection (a) with the appropriate federal
3510 agency is compliance with the requirements of subsection (a).

3511 Section 4. All monetary instruments or other property, real or
3512 personal, obtained directly as a result of a violation of
3513 section 2 of this chapter, shall be subject to forfeiture to the
3514 commonwealth.

3515 **SECTION 35.** Section 1 of chapter 271 of the General Laws, as
3516 appearing in the 2008 Official Edition, is hereby amended by
3517 inserting after the word "gaming", in lines 3 and 4, the
3518 following words:- ,except as permitted under chapter 23K.

3519 **SECTION 36.** Section 2 of said chapter 271, as so appearing, is
3520 hereby amended by inserting after the words "playing", in line
3521 4, the following words:- ,except as permitted under chapter 23K.

3522 **SECTION 37.** Section 3 of said chapter 271, as so appearing, is
3523 hereby amended by inserting after the words "gaming", in line 3,
3524 the following words:- ,except as permitted under chapter 23K.

3525 **SECTION 38.** Section 5 of said chapter 271, as so appearing, is
3526 hereby amended by inserting after the words "thing,", in line 7,
3527 the following words:- except as permitted under chapter 23K.

3528

3529 **SECTION 39.** The second paragraph of section 5A of chapter 271,
3530 as so appearing, is hereby amended by adding the following
3531 sentence:-

3532

3533 This section shall not apply to persons who manufacture,
3534 transport, sell, offer for sale, store, display, repair,
3535 recondition, possess or use any gambling device or parts for use
3536 therein for controlled gaming conducted under chapter 23K.

3537

3538 **SECTION 40.** Section 6 of said chapter 271, as so appearing, is
3539 hereby amended by striking out, in lines 3 and 4, the words
3540 "gambling or unlawful game and inserting in place thereof the
3541 words:- illegal gaming.

3542 **SECTION 41.** Section 7 of said chapter 271, as so appearing, is
3543 hereby amended by inserting after the word "device", in line 7,
3544 the first time it appears, the following words:- that is taking
3545 place in a legalized gaming establishment pursuant to chapter
3546 23K, .

3547 **SECTION 42.** Said chapter 271 is hereby further amended by
3548 striking out section 8, as so appearing, and inserting in place
3549 thereof the following section:

3550

3551 Section 8. Whoever owns, occupies, or is in control of a house,
3552 shop or building and knowingly permits the establishing,
3553 managing or drawing of such lottery, or such disposal or attempt
3554 to dispose of property, or the sale of a lottery ticket or share
3555 of a ticket, or any other writing, certificate, bill, token or

3556 other device purporting or intended to entitle the holder,
3557 bearer or any other person to a prize or to a share of or
3558 interest in a prize to be drawn in a lottery, or in such
3559 disposal or property, and whoever knowingly suffers money or
3560 other property to be raffled for or won by throwing or using
3561 dice or by any other game of chance that is not being conducted
3562 in a legalized gaming facility pursuant to chapter 23K, shall be
3563 punished by a fine of not more than \$2000 or by imprisonment in
3564 a jail or house of correction for not more than 1 year.

3565

3566 **SECTION 43.** Section 14 of said chapter 271, as so appearing, is
3567 hereby further amended by inserting after the word " by", in
3568 line 3, the first time it appears, the following words:-
3569 illegal games of.

3570

3571 **SECTION 44.** Section 16A of said chapter 271, as so appearing, is
3572 hereby amended by inserting after the word "wagerers", in line
3573 14, the following words:- or to persons who organize, supervise,
3574 manage or finance persons for the purpose of controlled gaming
3575 conducted under chapter 23K.

3576 **SECTION 45.** Section 17 of said chapter 271, as so appearing, is
3577 hereby amended by adding the following sentence:-

3578 This section shall not apply to persons who organize, supervise,
3579 manage or finance persons for the purpose of controlled gaming
3580 conducted under chapter 23K.

3581 **SECTION 46.** Section 19 of said chapter 271, as so appearing, is
3582 hereby amended by inserting after the word "hazard", in line 16,
3583 the following words:- ; provided, however, that this section
3584 shall not apply to advertising of legalized gaming conducted
3585 pursuant to chapter 23K.

3586

3587 **SECTION 47.** Section 20 of said chapter 271, as so appearing, is
3588 hereby amended by inserting after the word "used", in line 17,
3589 the following words:- ;provided, however that this section
3590 shall not apply to advertising of legalized gaming conducted
3591 pursuant to chapter 23K.

3592

3593 **SECTION 48.** Section 22 of said chapter 271, as so appearing, is
3594 hereby amended by inserting after the word " of", in line 6, the
3595 third time it appears, the following word:- illegal.

3596 **SECTION 49.** Section 23 of said chapter 271, as so appearing, is
3597 hereby amended by inserting after the word "for", in line 28,
3598 the following words:-; provided, however, that such provision
3599 shall not apply to legalized gaming conducted pursuant chapter
3600 23K.

3601

3602 **SECTION 50.** Section 28 of said chapter 271, as so appearing, is
3603 hereby amended by inserting after the word "of", in line 3, the
3604 third time it appears, the following word:- illegal.

3605 **SECTION 51.** Section 31 of said chapter 271, as so appearing, is
3606 hereby amended by inserting after the word "both", in line 8,
3607 the following words:- ;provided, however, that this section
3608 shall not apply to legalized racing conducted pursuant to
3609 chapter 23K.

3610

3611 **SECTION 52.** The General Laws are hereby amended by inserting
3612 after chapter 271 the following new chapter:-

3613

3614 Chapter 271A
3615 Enterprise Crime

3616

3617 Section 1. As used in this chapter, the following words shall,
3618 unless the context clearly requires otherwise, have the
3619 following meanings:-

3620 "Criminal enterprise activity", to commit ,attempt to commit,
3621 conspire to commit, or solicit, coerce, aid, abet, or intimidate
3622 another to commit any of the following criminal activity under
3623 the laws of the commonwealth or equivalent crimes under the laws

3624 of any other jurisdiction: murder; rape; manslaughter; assault;
3625 assault and battery; mayhem; robbery; extortion; stalking;
3626 criminal harassment; kidnapping; arson; burglary; malicious
3627 destruction of property; commission of a felony for hire;
3628 breaking and entering; child exploitation; poison; human
3629 trafficking; violation of constitutional rights; usury;
3630 uttering; misuse or fraudulent use of credit cards; identity
3631 fraud; misappropriation of funds; gross fraud; insurance fraud;
3632 prize fighting; boxing matches; counterfeiting; perjury;
3633 subornation of perjury; obstruction of justice; money
3634 laundering; witness intimidation; bribery; electronic
3635 eavesdropping; prostitution; receiving stolen property; larceny
3636 over \$250.00; larceny by false pretenses or/embezzlement;
3637 forgery; prohibited financial interest; procurement fraud; false
3638 claims; tax evasion; filing false tax return; crimes involving
3639 violations of laws relating to gambling and lottery; gift;
3640 liquor; tobacco s; firearms; securities; lobbying; ethics;
3641 conflict of interest child and elder abuse; or any conduct
3642 defined as a racketeering activity under Title 18, U.S.C. s.
3643 1961(1) (A) (B) and (D) .

3644

3645 "Enterprise", any individual, sole proprietorship, partnership,
3646 corporation, trust or other legal entity, or any unchartered
3647 union, association or group of persons associated in fact

3648 although not a legally recognized entity, and including unlawful
3649 and lawful enterprises and governmental and other entities.

3650

3651 "Pattern of criminal enterprise activity", engaging in at least
3652 two incidents of criminal enterprise activity that have the same
3653 or similar pattern, intents, results, accomplices, victims or
3654 methods of commission, or are otherwise interrelated by
3655 distinguishing characteristics and are not isolated incidents;
3656 provided Y at least 1 of the acts occurred after the effective
3657 date of this act and the last of the incidents occurred within 5
3658 years after a prior commission of criminal enterprise activity.

3659

3660 "Unlawful debt", a debt incurred or contracted in an illegal
3661 gambling activity or business or which is unenforceable under
3662 state or federal law in whole or part as to principal or
3663 interest because of the law relating to usury.

3664

3665 Section 2. Whoever knowingly: (1) through a pattern of criminal
3666 enterprise activity or through the collection of an unlawful
3667 debt, receives anything of value or acquires or maintains,
3668 directly or indirectly, any interest in or control of any
3669 enterprise; (2) has received any proceeds derived, directly or
3670 indirectly, from a pattern of criminal enterprise activity or
3671 through the collection of an unlawful debt, to use or invest,

3672 directly or indirectly, any part of the proceeds including
3673 proceeds derived from the investment, in the acquisition of any
3674 interest in real property, or in the establishment or operation
3675 of, any enterprise; (3) is employed by or associated with any
3676 enterprise to conduct or participate, directly or indirectly, in
3677 the conduct of the enterprise's affairs by engaging in a pattern
3678 of criminal enterprise activity or through the collection of an
3679 unlawful debt; or (4) conspires or attempts to violate
3680 subsections (a), (b), or (c) of this section; is guilty of
3681 enterprise crime and shall be punished by imprisonment in the
3682 state prison for not less than 3 years and not more than 15
3683 years or by a fine of not more than \$25,000, or by both such
3684 imprisonment and fine.

3685 A purchase of securities on the open market for purposes of
3686 investment, and without the intention of controlling or
3687 participating in the control of the issuer, or of assisting
3688 another to do so, shall not be unlawful under this section if
3689 the securities of the issuer held by the purchaser, the members
3690 of his immediate family, and his or their accomplices in any
3691 pattern of criminal activity or the collection of an unlawful
3692 debt after such purchase do not amount in the aggregate to one
3693 percent of the outstanding securities of any one class and do
3694 not confer, either in law or in fact, the power to elect one or
3695 more directors of the issuer.

3696 Section 3. All monetary proceeds or other property, real or
3697 personal, obtained directly as a result of a violation of this
3698 chapter, shall be subject to seizure and forfeiture to the
3699 commonwealth.

3700

3701 **SECTION 53.** Section 39 of chapter 272 of the General Laws, as
3702 appearing in the 2008 Official Edition, is hereby amended by
3703 inserting after the word "in", in line 7, the following word:-
3704 illegal.

3705

3706 **SECTION 54.** Section 99 of said chapter 272, as so appearing, is
3707 hereby amended by inserting after the word "forgery,", in line
3708 68, the word:- illegal.

3709

3710 **SECTION 55 .** Said section 13 of said chapter 494, as most
3711 recently amended by section 2 of chapter 114 of the acts of
3712 1991, is hereby further amended by striking out clause (c).

3713 **SECTION 56.** Clause (d) of said section 13 of said chapter 494,
3714 as appearing in said section 2 of said chapter 114, is hereby
3715 amended by striking out, in line 21, the words "(b) or (c)" and
3716 inserting in place thereof the following words:- and (b).

3717 **SECTION 57.** Said section 13 of said chapter 494, as most
3718 recently amended by said section 2 of said chapter 114, is
3719 hereby further amended by striking out subsection (f)
3720

3721 **SECTION 58.** The first paragraph of section 12A of chapter 494 of
3722 the acts of 1978 is hereby amended by striking out the words
3723 "and until July 31, 2010", inserted by section 1 of chapter 167
3724 of the acts of 2009, and inserting in place thereof the
3725 following words:- December 31, 2014.

3726 **SECTION 59.** The last paragraph of said section 12A of said
3727 chapter 494 is hereby amended by striking out the words "July
3728 31, 2010", inserted by section 2 of said chapter 167, and
3729 inserting in place thereof the following words:- December 31,
3730 2014.

3731 **SECTION 60.** The introductory paragraph of section 13 of said
3732 chapter 494 is hereby amended by striking out the words "and
3733 until July 31, 2010", inserted by section 3 of said chapter 167,
3734 and inserting in place thereof the following words:- and until
3735 December 31, 2014.
3736

3737 **SECTION 61.** Section 15 of said chapter 494 is hereby amended by
3738 striking out the words "and until July 31, 2010", inserted by
3739 section 4 of said chapter 167, and inserting in place thereof

3740 the following words:- and until December 31, 2014.

3741

3742 **SECTION 62.** The first paragraph of section 9 of chapter 277 of
3743 the acts of 1986 is hereby amended by striking out the words
3744 "and until July 31, 2010", inserted by section 5 of said chapter
3745 167, and inserting in place thereof the following words:- and
3746 until December 31, 2014.

3747 **SECTION 63.** The first sentence of the first paragraph of
3748 section 3 of chapter 114 of the acts of 1991 is hereby amended
3749 by striking out the words "and until July 31, 2010", inserted by
3750 section 6 of said chapter 167, and inserting in place thereof
3751 the following words:- and until December 31, 2014.

3752

3753 **SECTION 64.** The last paragraph of said section 3 of said
3754 chapter 114 is hereby amended by striking out the words "July
3755 31, 2010", inserted by section 7 of said chapter 167, and
3756 inserting in place thereof the following words:- December 31,
3757 2014.

3758

3759 **SECTION 65.** The first paragraph of section 4 of said chapter
3760 114 is hereby amended by striking out the words "and until July
3761 31, 2010", inserted by section 8 of said chapter 167, and
3762 inserting in place thereof the following words:- and until
3763 December 31, 2014.

3764

3765 **SECTION 66.** The last paragraph of said section 4 of said
3766 chapter 114 is hereby amended by striking out the words "July
3767 31, 2010", inserted by section 9 of said chapter 167, and
3768 inserting in place thereof the following words:- December 31,
3769 2014.

3770

3771 **SECTION 67.** The first paragraph of section 5 of said chapter
3772 114 is hereby amended by striking out the words "and until July
3773 31, 2010", inserted by section 10 of said chapter 167, and
3774 inserting in place thereof the following words:- and until
3775 December 31, 2014.

3776

3777 **SECTION 68.** Section 13 of chapter 101 of the acts of 1992 is
3778 hereby amended by striking out the words "July 31, 2010",
3779 inserted by section 11 of said chapter 167, and inserting in
3780 place thereof the following words:- December 31, 2014.

3781

3782 **SECTION 69.** Section 45 of chapter 139 of the acts of 2001 is
3783 hereby amended by striking out the words "July 31, 2010",
3784 inserted by section 12 of said chapter 167, and inserting in
3785 place thereof the following words:- December 31, 2014.

3786

3787 **SECTION 70.** Section 20 of chapter 449 of the acts of 2006 is

3788 hereby amended by striking out the words "July 31, 2010",
3789 inserted by section 13 of said chapter 167, and inserting in
3790 place thereof the following words:- December 31, 2014.

3791 **SECTION 71.** Notwithstanding any general or special law to the
3792 contrary, in making initial appointments to the board of
3793 directors of the Massachusetts gaming commission established
3794 pursuant to section 3 of chapter 23K of the General Laws, the
3795 governor, the attorney general and the treasurer and receiver
3796 general, by majority agreement, shall appoint 1 commissioner to
3797 serve for a term of 3 years, 1 commissioner to serve for a term
3798 of 4 years, 1 commissioner to serve for a term of 5 years, 1
3799 commissioner to serve for a term of 6 years, and 1 commissioner
3800 to serve for a term of 7 years.

3801 **SECTION 72.** Notwithstanding any general or special law to the
3802 contrary, the vote of a municipality required pursuant to
3803 section 16 of chapter 23K of the General Laws shall occur after
3804 the effective date of this act.

3805 **SECTION 73.** Pursuant to section 2 of chapter 1194, 64 Stat.
3806 1134, 15 U.S.C. 1171-1177, approved January 2, 1951, the
3807 commonwealth, acting by and through duly elected and qualified
3808 members of the general court, does declare and proclaim that the
3809 commonwealth shall be exempt from the provisions of chapter
3810 1194, 64 Stat. 1134, 15 U.S.C. 1171 to 1178 for any gambling

3811 device authorized for use and transport under chapter 23K of the
3812 General Laws and any regulations promulgated thereunder.

3813 **SECTION 74.** All shipments of gambling devices into the
3814 commonwealth, including slot machines, the registering,
3815 recording and labeling of which has been duly had by the
3816 manufacturer or dealer thereof in accordance with sections 3 and
3817 4 of an Act of Congress of the United States entitled "An act to
3818 prohibit transportation of gambling devices in interstate and
3819 foreign commerce," approved January 2, 1951, being chapter 1194,
3820 64 Stat. 1134, and also designated as 15 USC §§ 1171-1177 ,
3821 shall be deemed legal shipments thereof into this commonwealth.

3822 **SECTION 75.** Notwithstanding any general or special law to the
3823 contrary, the Massachusetts gaming commission shall analyze the
3824 pari-mutuel and simulcasting statutes in effect as of the
3825 effective date of this act. Said analysis shall include a review
3826 of the efficacy of said statutes and the need to replace said
3827 statutes pursuant to the sunset of chapters 128A and 128C of the
3828 General Laws established under this act. Said review shall not
3829 include a review of whether to increase the number of running
3830 horse, harness horse or greyhound racing meeting licensees. Said
3831 commission shall report its finding together with legislation,
3832 if any, to the clerks of the house of representatives and senate

3833 and to the chairs of the joint committee on economic development
3834 and emerging technologies no later than January 1, 2013.

3835 **SECTION 76.** Section 25 and 27 of this act shall take effect on
3836 July 31, 2014.